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THE LAW

RELATING TO

MERCHANT SEAMEN,

ARRANGED CHIEFLY FOR THE USE OF

Masters and Officers in the Merchant Service.

WITH

AN APPENDIX,

CONTAINING

THE ACT (7 AND 8 VICT. c. 113.);

THE REGULATIONS UNDER WHICH LASCARS MAY BE EMPLOYED;

AND

SOME FORMS OF PROCEEDINGS BEFORE MAGISTRATES.

BY

EDWARD WILLIAM SYMONS,

CHIEF CLERK OF THE THAMES POLICE COURT.

THIRD EDITION.

LONDON:

LONGMAN, BROWN, GREEN AND LONGMANS;
CHARLES WILSON, (LATE J. W. NORIE AND WILSON);
AND M. WATSON, JUN., WAPPING.

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PREFACE

TO THE THIRD EDITION.

THE alterations made by the Merchant Seamen's Act of the last Session of Parliament, which is to commence and take effect from and after the 1st of January, 1845, have induced the author to prepare a new edition of this work, in which he has adhered to his original arrangement, and endeavoured to combine the provisions of the Act with such rules of the maritime and common law as appear to him necessary, in order to afford a complete rule or guide to nautical men, for whom the work originally was, and still is, principally intended.

To effect a system of registration of British Seamen (including Apprentices), the Act, amongst other provisions, makes it penal to employ a seaman who cannot produce his register ticket. This enactment may cause some inconvenience in the early period of its operation, for want of a proviso to exempt from penalty the master of a ship, who, from some casualty, may be compelled, at a foreign or British Colonial port, to engage a seaman not having a register ticket. This is not an improbable occurrence, because some time must necessarily elapse before registered seamen can be obtained in distant places abroad. In such case the master should be prepared to prove the fact, and should endeavour to get it certified on his agreement by the Consul or Vice-consul at such foreign port, or by the

—

Collector or Comptroller of Customs at such British colonial port: for although such certificate would not justify a breach of the Act, it would afford good reason for mitigating the penalty.

It may however be anticipated, that desertion "in parts beyond the seas" will be greatly discouraged by the operation of the Act; and it cannot be too generally known by seamen, that if they desert they would place themselves in a very unfavorable position; for no master could ship them after such desertion without subjecting himself to a penalty, and even if they should get shipped, their wages on the homeward voyage would be forfeited. The Act has effectually provided that the register tickets of all seamen who desert abroad shall be sent to the Registrar of Seamen, and does not state how they are to be recovered. Such seamen will, therefore, have to apply at the Register Office in London, or at the Custom House of one of the "outports of the United Kingdom," to be put in the way of recovering their register tickets, and cannot lawfully be employed till they obtain them.

The forfeiture for temporary misconduct is increased to the amount of six days pay for every twenty-four hours absence or neglect of duty, and deserters are subjected to imprisonment, with or without hard labour, in addition to the forfeiture of wages.

But, on the other hand, the Legislature has not been unmindful of the comfort of seamen—their health, and their pecuniary advantage. The quantity of provisions they are to receive is to be stated in the agreement; lime or lemon-juice, sugar, and vinegar are to be served out to them in stated quantities when-

ever they shall have been consuming salt provisions for ten days, and "so long as the consumption of salt provisions be continued." In case of reduction in the supply of provisions, each seaman is to receive a proportionate compensation. And in all cases of wreck, wages are to be paid when the seamen shall "exert themselves to the utmost to save the ship, cargo, and stores."

The regard thus manifested for the welfare of seamen should have a beneficial effect upon their conduct; but there is room for the exercise of a further degree of kind attention to their condition. It is much to be regretted, that British Seamen—the pride and glory of their country on the ocean—should waste the fruits of their toils and perils in gross sensuality, and be reduced so frequently to the destitute and hopeless condition described in the reports of the Seamen's Hospital Society:* it would materially promote their improvement, if means could be devised in some degree to

* The following is extracted from the 23rd Report of the Society:—"It is a custom generally practised by the crimps and the low housekeepers, who derive a living by their traffic with sailors, to visit ships immediately upon their arrival, in order to persuade the seamen to resort to their houses for board and lodging, where so little care is devoted to the wants of the inmates, that seamen seriously ill when they land, are, through neglect or improper treatment, reduced to a worse—even to a hopeless condition, and, in such state—their money being spent, and their effects disposed of—they are inhumanly turned out to perish in the streets." It might have been added, that the persons alluded to are too active in getting possession of a seaman's chest and hammock in the first instance and of his wages afterwards, to allow him any option as to his place of residence.

correct their follies, and protect them from evil counsel and systematic fraud while on shore.

The last of those reports turns in gratifying contrast to such institutions as "the Sailors' Home," and states that "the Seamen's Hospital receives but few cases from that excellent establishment, and of those few, none have presented the dreadful features which have characterized the cases of patients admitted from lodging houses kept by crimps."

This digression will be excused by those practical men who are ready to admit, that a seaman, who has been justly and properly treated while on shore, returns to his avocation in a temper and spirit more congenial with the course of his duty, than one who has to brood over the recollections of very different treatment.

The author trusts that the little time he has had to prepare this edition since the passing of the Act, without interfering with his public duties, will be kindly remembered in extenuation of any imperfections that may be discovered.

Gratefully recollecting the favor with which his first effort was received, not only by mercantile and nautical readers, but also by persons exercising consular and magisterial functions, and members of the legal profession, he has endeavoured to render this edition more generally useful, by adding a literal copy of the new Merchant Seamen's Act, and some forms of proceedings before Magistrates, which have been kindly revised by a friend at the Bar.

E. W. S.

27th November, 1844.

INTRODUCTION TO THE FIRST EDITION.

It is a remarkable circumstance, that in this great maritime country no attempt was made, previous to the year 1835, to consolidate the laws relating to Merchant Seamen, and to include in one Act of Parliament some of the general principles which had been applied to their regulation by the Court of Admiralty, but which were not to be traced beyond the precincts of that Court, except by laborious research. In that year the Act, commonly called Sir James Graham's Act,* laid the foundation of a more simple and intelligible system, and whatever may be its defects, it deserves at least a fair trial, which cannot be given to it so long as those whose especial duty it is to obey the law and act upon it, remain imperfectly acquainted with its provisions, or continue inattentive to some of its plain and positive rules. Daily experience of the defective manner in which the Act has been complied with, has led to a belief that much of the difficulty which has been ascribed to it, may be more properly attributed to an insufficient acquaintance with its enactments. Want of information and error on the part of the master of a ship

* 5 and 6 Wm. IV. c. 19.

necessarily produce dissatisfaction in the minds of the seamen, and it behoves masters to make themselves well acquainted with the law, both as regards their own duties, as also the rights of and treatment to be observed towards their crews.

The Act does not take away or diminish the authority of the master "over all the mariners on board," nor does it restrain him, in case of disobedience or disorderly conduct, from "correcting them in a reasonable manner." "Such an authority," said Lord Tenterden, "is absolutely necessary to the safety of the ship and of the lives of the persons on board," and the common law of this country says so still. The Act, so far from impairing the authority of the master, has given him an additional power of great value if constantly enforced and judiciously exercised,—namely, the power of subjecting seamen to forfeitures for absence, or neglect of duty, provided the required entries in the Log-book be duly made as directed by the Act. Such entries should never be omitted, whether the absence or neglect of duty be continued for a long time, or confined even to an hour's duration, or a single act. The master does not deprive himself or his owners of a discretion to waive the forfeitures upon subsequent good conduct of the seamen, by making the required entries; but if he neglect to do so, he abandons his power to enforce the forfeitures. If a judicious use of this additional power should not induce seamen to return to their duty, they are to be reminded that repeated or continued acts of disobedience will, by the maritime law, cause the forfeiture of their whole wages, as before

the passing of the Act; and in cases of peril, or pressing necessity, the master may exercise his authority to compel them to perform the duty of the ship, subject to the advice which he will find in the course of the second chapter of the following treatise, as to the discreet and temperate manner in which such authority is to be exercised.

It is of importance, therefore, to consider the Act in connexion with the general principles of maritime law, some of which it embraces, and by reference to the whole of which it is to be construed where its interpretation is not obvious and explicit. Such a general view of the entire law relating to Merchant Seamen, applied in regular order to the various incidents between the act of signing the agreement to perform a voyage, and its termination, is now submitted to the public, but it is intended chiefly for the use and information of Masters and Officers in the Merchant Service.

In two or three instances, perhaps, the extracts from the Admiralty reports may be considered tedious; but intelligent men will find in them instruction of great practical value: if curtailed, they might be liable to be misunderstood. And it will be found that upon points of importance which occur at different periods of the same voyage, and require continued attention, observations are sometimes repeated, for the purpose of inducing masters to be accurate;—for instance, with respect to entries in the Log-book of the seamen's misconduct.

This leads to a remark that owners and masters of *coasting vessels* who have not hitherto caused Log-

X INTRODUCTION TO THE FIRST EDITION.

books to be kept on board their vessels, would consult their own interests and improve the management and discipline of such vessels by causing Log-books to be forthwith kept; for the law does not allow any forfeiture of wages to be imposed on seamen for absence without leave, neglect of duty, or desertion, unless the same shall have been truly entered in the Log-book according to the directions of the Act.

With the information which it has been attempted to simplify and conveniently arrange in the following pages, the law, as it stands at present, will probably have a fairer trial than it has yet obtained, and greater facilities will be afforded to discover its defects, and suggest suitable remedies, than have hitherto been given to those whose interests are deeply involved in the preservation of good order in merchant ships, or to the general body of Merchant Seamen, whose prosperity and comfort are essentially promoted by a wholesome system of discipline.

E. W. S.

1st June, 1839.

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ERRATA.

- Page 6, line 10, *for seamen read seaman.*
10, 16, *for drovided read provided.*
73, note, *read Murray v. Moutrie.*
123, line 9, *for dimissed read dismissed.*
152, 12, *for Seaman's read Seamen's.*
158, 17, *for seaman read seamen.*

CHAPTER I.

OF THE MATTERS REQUIRING ATTENTION BEFORE THE COMMENCEMENT OF A VOYAGE.

THE fit and proper complement of seamen on board a British merchant ship, is left to the practice of the merchant service, and the judgment of the ship owner or master, according to the exigencies of the voyage in which a ship may be engaged. But if any other than British seamen shall be employed, the Navigation Act determines the proportion of such seamen in the following terms :—" Every British registered ship shall be navigated during the whole of every voyage, (whether with a cargo or in ballast,) in every part of the world, by a master who is a *British* subject, and by a crew, whereof three-fourths at least are *British* seamen; and if such ship be employed in a coasting voyage from one part of the United Kingdom to another, or in a voyage between the United Kingdom and the islands of Guernsey, Jersey, Alderney, Sark, or Man, or from one of the said islands to another of them, or from one part of either of them to another of the same, or be employed in fishing on the coasts of the United Kingdom, or of any of the said islands, then the whole of the crew shall be *British* seamen." (3 and 4 Wm. IV. c. 54, s. 12.)

Section 16 provides that every *British* ship (except ships required to be wholly navigated by *British* seamen) which shall be navigated by one *British* seaman for every twenty tons of the burthen of such ship, shall be deemed to be duly navigated, although the number of other seamen shall exceed one-fourth of the whole crew.

With respect to *British* ships trading "from and to places within the limits of the Charter of the East India Company," which are in part manned by *Lascars*, and other natives of the East, who "are not deemed to be equal in strength and use to European or other seamen," it is enacted that every such ship which shall be navigated by four *British* seamen as part of the crew for every hundred tons of her registered burthen, and so in proportion for any part of a hundred tons, shall be deemed to be navigated according to law, although the number of such *British* seamen shall not be equal to the proportion of three-fourths of the whole crew. (4 Geo. IV. c. 80, s. 21.) But vessels trading only between ports and places within the limits of the Charter of the said Company, including the Cape of Good Hope, are not required to have any number of *British* seamen on board as part of the crew. (s. 23.)

Section 22 recites that it may not always be possible to procure the due proportion of *British* seamen at ports in India, for vessels sailing from India; and enacts that it shall be lawful for any of the governments of the East India Company in India, or for any Governor or Lieutenant-Governor of any colony, territory, or island belonging to Her Majesty, within the limits

of the said Company's Charter, and they are required, on application made by the owner or commander of any ship or vessel, and after having ascertained by due inquiry that a sufficient number of British seamen cannot be procured for the crew of any ship or vessel sailing from India, within ten days from such application, to certify the same, and license such ship or vessel to sail and carry on her voyage with a less proportion of British seamen than required by law; and every such ship, having on board such licence, and the proportion of British seamen therein specified, shall be deemed to be navigated according to law, notwithstanding such deficiency of British seamen.

In the "Act for the prevention of Smuggling," certain vessels *found within one hundred leagues of the coast of the United Kingdom* are made liable to forfeiture, unless especially licensed by the Commissioners of Customs, if navigated by a *greater* number of men (officers and boys included) than in the following proportions; (that is to say,) As to vessels not being luggers, and at the time fitted and rigged as such:—

If of 30 tons or under, and above 5 tons, 4 men.

If of 60 tons or under, and above 30 tons, 5 men.

If of 80 tons or under, and above 60 tons, 6 men.

If of 100 tons or under, and above 80 tons, 7 men.

And above that tonnage, one man for every 15 tons of such additional tonnage.

And luggers are not to have a greater number of men (officers and boys included) than in the following proportions:—

If of 30 tons or under	8 men.
If of 50 tons or under, and above 30 tons,	9 men.
If of 60 tons or under, and above 50 tons,	10 men.
If of 80 tons or under, and above 60 tons,	11 men.
If of 100 tons or under, and above 80 tons,	12 men.

And if above 100 tons, one man for every ten tons of such additional tonnage. (3 and 4 Wm. IV. c. 53, s. 17.)

No person is qualified to be a master of a British ship, or to be a British seaman within the meaning of the Navigation Act, except the natural born subjects of Her Majesty, or persons naturalized by any Act of Parliament, or made denizens by letters of denization; or except persons who have become British subjects by virtue of conquest or cession of some newly acquired country, and who shall have taken the oath of allegiance to Her Majesty, or the oath of fidelity required by the treaty or capitulation by which such newly acquired country came into Her Majesty's possession; or persons who shall have served on board any of Her Majesty's ships of war in time of war for the space of three years. But it is provided, that the natives of places within the limits of the East India Company's Charter, although under *British* dominion, shall not, upon the ground of being such natives, be deemed to be *British* seamen. (3 and 4 Wm. IV. c. 54, s. 16.)

It is also provided, that it shall be lawful by Royal Proclamation during war, to declare that Foreigners, having served two years on board any of Her Majesty's ships of war in time of such war, shall be *British* seamen within the meaning of the Act. (3 and 4 Wm. IV. c. 54, s. 17.)

Foreigners serving on board British ships are to be treated in the same manner as British seamen, it being “a settled doctrine of law, that when a subject of one country enters into the service of a ship belonging to the subjects of another country, he must be considered *pro hac vice* to be a subject of that country to which the vessel belongs.”*

The number of apprentices required on board every ship belonging to a subject of Her Majesty, and of the burthen of 80 tons and upwards, (except pleasure yachts) is regulated in the following proportion to the number of tons of the ship's admeasurement, according to the certificate of registry, (that is to say)—For every ship of 80 tons, and under 200 tons, one apprentice at the least; of 200 tons and under 400 tons, two apprentices at the least; of 400 tons, and under 500 tons, three apprentices at the least; of 500 tons, and under 700 tons, four apprentices at the least; and every ship of 700 tons and upwards, five apprentices at the least; all of whom, at the period of their being bound respectively, are to be subjects of Her Majesty, and above twelve and under seventeen years of age, and to be duly bound for the term of four years at the least, and every such apprentice must be furnished with a register ticket. (7 and 8 Vict. c. 112, ss. 20, 37.)

All the indentures of apprenticeship and assignments of such apprentices are to be registered in “the General Register Office of Merchant Seamen,” at the Custom House in the Port of London, if the master shall be or reside within the said port; or if at any

* Golubchick, *Bernardos*, W. Rob. Ad. Rep. 1, p. 150.

other port, by the Collector or Comptroller of such port. (ss. 20, 39, 40.)

If any master or owner shall neglect to have on board his ship the number of apprentices, as required by the Act, together with their respective registered indentures, assignments, and register tickets, he will for every such offence forfeit the sum of ten pounds, in respect of each apprentice, indenture, assignment, or register ticket so wanting or deficient. (s. 37.)

Before the employment of any seamen being a subject of Her Majesty, he must provide himself with a register ticket, and for that purpose he must apply personally at the General Register Office of Seamen in London, or at the Custom Houses of the several outports of the United Kingdom; and every applicant is required to answer truly to the best of his ability, all the questions in Schedule (F) to the Act annexed, before he receive his register ticket. (s. 20.)

No person can serve in any capacity on board any ship subject to any of the provisions of the Merchant Seamen's Act, (except the master, physician, surgeon, or apothecary) who is not possessed of such register ticket. (*id.*)

Nor can any owner or master employ any seaman on board any vessel *under the burthen of eighty tons*, employed in fishing on the coasts of the United Kingdom, or proceeding from one part of the United Kingdom to another, or proceeding to any of the islands of Jersey, Guernsey, Alderney, Sark, and Man, or to any place on the Continent of Europe between the river Elbe inclusive and Brest, without such register ticket. The owner or master of every

such vessel, *though not required to enter into a written agreement with his crew, must before employing any seaman or other person in the service of his vessel, receive from every such seaman or person his register ticket*, which he is required to retain until the service of such seaman or other person shall have expired, when he is to return the register ticket to the person entitled thereto. (s. 3.)

Any master neglecting to obtain from any seaman or other person, being a subject of Her Majesty, his register ticket, according to the provisions of the Act, will forfeit ten pounds for and in respect of every such seaman. (s. 4.)

If any seaman shall lose his register ticket, he is required forthwith to appear in person, and represent his case to the Registrar of Seamen in London, or the Collector or Comptroller of the Customs at any of the outports; and he must truly answer all reasonable questions put to him by the said Registrar or officer of Customs, and if it appear that no fraud has been committed, and the loss was unavoidable, he is to be furnished with another register ticket; but if it appear that he did not take due and reasonable care of his former ticket, or if he shall not give a satisfactory account of the same, he will be liable to a penalty not exceeding ten shillings, nor less than two shillings, and will not be entitled to any other ticket until such penalty shall be paid. (s. 22.)

Every person who shall apply for any ticket, and shall give a false answer to any reasonable question which may be put to him by the Registrar of Seamen, or his assistant, or by the Collector or Comptroller of

Customs, with reference to the granting such ticket, will be guilty of a misdemeanor. (*id.*)

If any person shall alter or destroy a register ticket, or counterfeit, transfer, or traffic in, for gain or otherwise, or attempt to counterfeit, transfer, or traffic in, for gain or otherwise, any register ticket issued or purporting to be issued pursuant to the provisions of the Act, he will be guilty of a misdemeanor. (s. 21.)

And any person becoming possessed of a register ticket, other than that legally issued to him, is required forthwith to transmit the same to the Registrar of Seamen, and in case of default he will be liable to a penalty of twenty pounds. (*id.*)

District Registrars of births, deaths and marriages, are required to demand from the person registering the death of any seaman the register ticket of such seaman, and forward the same to the Registrar of Seamen; and no person other than the said Registrar of Seamen is allowed to retain the ticket of a deceased seaman. If any person shall retain any such ticket for more than twenty days after the death of any such seaman, or ten days after the arrival of the ship in the United Kingdom, should the seaman die abroad, he will be liable to a penalty not exceeding five pounds in respect of every such register ticket so detained. (s. 23.)

Lists of the numbers of all the register tickets that have been *cancelled* are to be published half-yearly in the London Gazette, and exhibited in the Custom-houses; and copies of such lists are to be delivered to any master or owner on application. (s. 24.)

Every master or owner entering into an agreement

with any seaman *producing such cancelled ticket* will incur a penalty of not exceeding five pounds: and every seaman tendering or delivering to a master a cancelled ticket, or any other ticket not legally issued to him, or falsely representing himself to be a foreigner, will forfeit to the owner all wages which shall become due to him during the service for which he shall have agreed. (s. 24.)

Section 2 enacts that "it shall not be lawful for any master of any ship, of whatever tonnage or description, belonging to any subject of Her Majesty, proceeding to parts beyond the seas, or of any British registered ship of the burthen of eighty tons or upwards, employed in any of the fisheries of the United Kingdom, or in proceeding coastwise or otherwise, from one part of the United Kingdom to another, to carry to sea any seaman as one of his crew or complement (apprentices excepted), unless the master of such ship shall have first made and entered into an agreement in writing with such seaman, specifying what wages such seaman is to be paid, the quantity of provisions he is to receive, the capacity in which he is to act or serve, and the nature of the voyage in which the ship is to be employed, so that such seaman may have some means of judging of the period for which he is likely to be engaged; and that such agreement shall be properly dated, and shall be signed by such master, in the first instance, and by the seamen respectively, at the port or place where they shall be shipped; and that the signature of each of the parties thereto shall be duly attested by one witness at the least, and that the master shall cause the agreement to be read.

over and explained to every such seaman, in the presence of such witness, before such seaman shall execute the same; and it shall not be lawful for the master of any ship to carry to sea any seaman, being a subject of Her Majesty, until he shall also have first obtained from every such seaman or other person his register ticket, which ticket the said master is required to retain (except in the cases afterwards provided) until the service of such seaman shall have terminated; and at the termination of such service the said master shall return the register ticket to him."

Section 3 enacts that in the case of any ships, of whatever tonnage or description, belonging to any subject or subjects of Her Majesty, and proceeding to parts beyond the seas (except as thereafter provided), the agreement shall be in the form set forth in schedule (A) to the Act annexed, and shall contain the several particulars therein mentioned or required.

And "that in the case of any ship employed in fishing on the coasts of the United Kingdom, or proceeding from one part of the United Kingdom to another, or proceeding to any of the islands of Jersey, Guernsey, Alderney, Sark and Man, or to any place on the Continent of Europe between the river Elbe inclusive and Brest," the agreement shall be in the form set forth in schedule (B) to the Act annexed, and shall contain the several particulars therein mentioned or required; and every such last mentioned agreement shall not extend beyond the 30th June and the 31st December in each year, or on arrival in any port of the United Kingdom after the same respective dates.

The difference between the two forms of agreement requires attention. The former is for a definite voyage, determinable at the port of final delivery; but in the case of any ship employed in fishing on the coasts of the United Kingdom, and in the coasting trade, or proceeding to Jersey, Guernsey, Alderney, Sark and Man, or to any place on the Continent of Europe between the river Elbe inclusive and Brest, the form prescribed by the Act is adapted to the hiring of a seaman for an indefinite term, not exceeding six months, and the continuation of his employment during several consecutive voyages. The engagement may however be terminated before the end of six months, under the proviso introduced, which leaves the parties at liberty to put an end to it on the completion of any voyage at a port of the United Kingdom.

This form is suited to the convenience of all parties engaged in the regular coasting trade, and in steam and other vessels making constant voyages to places on the Continent of Europe between the river Elbe inclusive and Brest, and it ought to be adopted instead of the old mode of engagement by the voyage or run, which is still used in the coal trade, to the prejudice of the seamen engaged therein. If colliers were permitted, on their arrival in the Port of London, to discharge their cargoes forthwith, as is the case with other vessels, the seamen could not perhaps complain of being engaged by the voyage or run; but as they are frequently detained two or three weeks after their arrival in the Port of London, and before delivery, it is but fair and just that they should have the compensation which the form of agreement prescribed by the

Act would give them, and that their wages should be fixed at a monthly rate.

It may be objected that agreements to pay monthly wages have a tendency to render the seamen inactive, but this is contrary to the natural effect of an equitable compensation for labour: when there is no cause for dissatisfaction men generally work willingly, and the disputes which often arise between masters of colliers and their seamen would be prevented by adopting the equitable form of agreement provided for them, and stipulating for the payment of wages by the month.

The practice of hiring by the voyage prevails in the North of England, even in cases where a ship is to proceed to a port on the Continent of Europe, and where the voyage must be subject to contingencies which render its duration uncertain. In such cases it is sometimes agreed, that under certain circumstances the seamen shall be entitled to claim for two voyages, whilst under other circumstances, seldom clearly defined, they shall be entitled to more or less. This uncertainty is contrary to the Act of Parliament, which requires the wages to be distinctly stated.*

* The custom in the North of England to pay by the voyage is so fondly preserved, that an artificial mode of calculation has been established, whereby a single voyage is called a voyage and a fraction, or a double or treble voyage, according to the distance of the Port of destination from the clearing Port;—thus, a voyage from Sunderland or Newcastle to London or Margate, or any Port to the eastward of Beachy Head, is reckoned as one voyage; to Newhaven, a voyage and a third; to Portsmouth, a voyage and a half; to Exmouth, a voyage and

Section 4 enacts, that if any master or owner shall carry out to sea any seaman (apprentices excepted) without having first entered into *the required agreement* with such seaman, or if any master *shall not obtain from any seaman* or other person, being a subject of Her Majesty, *his register ticket*, according to the provisions of the Act, he shall in either and every of such cases forfeit and pay the sum of ten pounds for and in respect of every such seaman.

Masters and owners should compare every printed form of agreement not known to be accurate with the proper form contained in the schedule to the act; for if any form be used which does not fulfil the object of the Act, and satisfy its terms (*the required agreement*), the master or owner will be subject to the penalty.

All printed forms should be in exact conformity with the Act, and if any special clauses are required, they should be *written* in the space left for that purpose.

There are still some erroneous printed forms in circulation,* especially in *Jersey* and *Guernsey*, con-

two-thirds; to Plymouth and Falmouth, two voyages; and to any port in the Bristol Channel three voyages. Sometimes the remuneration to the seamen is regulated by the successful progress of the voyage; as when ships proceed from Sunderland or Newcastle to Hamburgh or elsewhere abroad, and obtain cargoes for the homeward voyage, it is agreed to pay for a voyage and a half, or to give some extra remuneration for loading the homeward cargo. To put such special and conditional engagements in the form prescribed by the Act of Parliament, requires some ingenuity, of which no successful specimen has come under the author's observation.

* There should be no printed endorsement on the forms.

taining a most objectionable clause, which has been introduced to subject all the ship's company to a proportionate abatement of wages, in case of any embezzlement, damage, or loss, which cannot be traced to the person or persons by whose means the same may have happened. This is a stipulation which, besides being contrary to the common law of this country, as rendering an innocent person responsible for the crimes and misconduct of a guilty person, is manifestly inconsistent with the spirit of the Act, and contrary to the form directed to be used, which expressly confines the liability to abatement on account of embezzlement, or wilful or negligent loss or destruction of any part of the ship's cargo or stores, to "*the seaman guilty of the same.*" Such illegal stipulation renders the agreement void and of no effect, for it is declared, that "no agreement contrary to or inconsistent with the Act shall be valid or binding on any seaman;" and any master who makes an illegal agreement fails to enter into *the required agreement*, and renders himself liable to the penalty of ten pounds. (ss. 4 and 5.)

This penalty attaches to the master's neglect of any one of the several particulars required to be observed in making the agreement, which are therefore here separately set out.

Every one on board the ship forming part of the crew or complement (apprentices excepted) must be required to sign the agreement. Engineers and firemen employed on board steam vessels are within the meaning of the Act, which by the 63d section enacts, that every person (apprentices excepted) who shall be employed or engaged to serve in any capacity on

board, shall be deemed and taken to be a seaman, within the meaning and for the purposes of the Act. A medical officer or purser is to be deemed a mariner.* Young persons going out upon trial voyages are within it, and, if not apprentices, should also sign the agreement, whether they are to receive wages or no; and if they are not to receive wages, it should be so stated. It has occasionally happened that persons in foreign parts contract with the master to "work their passage" home to this country; in other words, to do such work on board as they may be set to and may be capable of performing, in consideration of which services the master engages to give them a free passage. Even in such case the master should cause the agreement to be signed by the party, and it should be stated that he is *to render such services as he may be capable of performing* without wages. If the master neglect to have the agreement signed in such a case, he may subject himself to the penalty of ten pounds, for taking the party to sea as one of his crew or complement without signing the agreement.

The agreement is to specify what wages each seaman is to be paid. If the wages are to be monthly, the words "share or voyage" at the head of the column should be struck out. If each seaman is to be paid a stipulated sum for the voyage, the words "calendar month, share, or" should be struck out; but when he is to receive a share of the proceeds of the voyage all the other words should be struck out, and the proportionate share should be stated, so as

* Prince George, *Shaw*, 3, Hagg. 376.

to adapt the form with accuracy to each particular case.

The day on which the agreement is made with every man should be stated, with the month, year, and place of entry, in the proper columns.

A very important stipulation is now added to the agreement, a column being provided in which is to be specified the quantity of provisions each seaman is to receive per day: if during the voyage the allowance of provisions shall be reduced one-third of the quantity, or less, the seaman is to receive four-pence a day; and if the reduction be more than one-third, he is to receive eight-pence per day, during the period such respective deductions may be made; and such pecuniary allowance is to be paid to him in addition to and be recoverable as wages. (s. 12.)

The number and date of the ship's register, and also the number of every seaman's register ticket, are to be stated in the proper columns at the foot of the agreement.

The agreement *must* "*be signed by the master in the first instance.*"* This particular has been frequently

* It is recommended that a duplicate of the agreement should be invariably signed, so that one part may be kept on board the ship, and the other deposited with the owner. This is not a new practice; there are cases stated in the Admiralty Reports which show that it has been sometimes resorted to, and it is very desirable that it should generally prevail. In case of the loss of a ship it may be very material for the owner to be able to produce a duplicate agreement signed and completed as an original document; and in case of a seaman absenting himself from his ship just before the sailing thereof, or refusing to proceed to sea in her, the production of a dupli-

neglected. The master should sign at the foot of the agreement, and above the columns. It will not be sufficient for him merely to write his name in the heading, as some masters have supposed.

It must be signed by every person forming part of the crew in the column headed "Men's names," in which their christian and surnames are to be set forth at full length, in the presence of one witness at the least, who is to attest their respective signatures, and sign his own name in the column headed "Witness to signature"; and the party acting as witness must be a third person, and not one of the parties to the agreement. This matter may seem scarcely worth notice, but as agreements have been made to which the master himself has been the attesting witness, it is necessary to point out the irregularity. The master is a party to the contract with every individual of the crew, and whenever the law requires a witness to a contract between two parties, a third person, and not one of the contracting parties, must be called as the attesting witness.

Also, the master is required to cause the agreement to be read over and explained to every such seaman, in the presence of such witness, before such seaman shall execute the same. And if any master or owner shall neglect to cause the agreement to be read over and explained to such seaman, before the signing thereof by such seaman, he will for each neglect for-

cate agreement signed by him, will enable the owner to complain to a magistrate, and pursue the ordinary course to punish the seaman after the departure of the ship.

feit the sum of five pounds for every such seaman. (ss. 2 and 4.)

The agreement must be signed "at the port or place where the seamen shall be shipped;" signing it at sea after the commencement of a voyage will not protect a master from the penalty.

The agreement in schedule (A) must describe the intended voyage as nearly as can be done, and the places at which it is intended the ship shall touch, or if that cannot be done, the nature of the voyage in which she is to be employed. This requires especial attention, and will be elucidated in the details of the following cases.

In the case of a ship bound to New South Wales, where the voyage was expressed to be to New South Wales and India, "or elsewhere," and to return to a port in Europe, the Court of Admiralty gave to the words, "or elsewhere," a reasonable construction, conformable to a certain extent to the necessities of commerce, but held that they were not to be taken in the indefinite latitude in which they were expressed, and would not authorize the master to proceed from Port Jackson to New Zealand, from thence to Valparaiso, and Lima, and Otaheite, and back to Sydney Cove, and from thence to Calcutta. And in another case, where the voyage was expressed to be "from London to Batavia, to any ports and places, the East India Seas, or elsewhere, and until her final arrival at any port or ports in Europe," it appearing to have been the intention of the owners, at the commencement of the voyage, that the ship should return from India to Cowes, and there receive orders

as to the port of discharge, the description of the voyage was considered much too general, for that the intention to come to Cowes for orders, as to the port of delivery, ought to have been mentioned.* In another case the voyage was thus described:—"From London to Van Diemen's Land, *vid* Cork and elsewhere, and back to London." The ship sailed with convicts to Sydney, and from thence to Batavia, and in the course of her return voyage, arrived in the Downs, when the Captain proceeded to London, where he received directions to go with the ship to Rotterdam. Five sailors objected to accompany the ship upon her new destination, three of whom were dismissed with their wages. The complainant in the case and another mariner continued in the vessel during this further voyage, but they declined the performance of any duty until the arrival of the ship in the Port of London. It was contended that this ulterior voyage was within the contract, and that the refusal of the mariner to work amounted to an entire forfeiture of his wages; but Lord Stowell said,—“In my opinion, what the seamen were not bound to accede to, cannot be considered as such a desertion of their duty as to amount to any forfeiture whatever. The owners, it would seem, had reserved in their own minds, the final termination of the voyage; but *both parties* have a right to know what is the precise voyage for which they undertake to contract. It may be said that the alteration is slight—that it is a very little

* Abbott on Shipping, (Shee's ed.) p. 542. Minerva, Bell, 1 Hagg. A. R. 347. George Home, Young, id. 370.

prolongation of the voyage ; but it is perfectly clear, that the seamen are not the less entitled to know *that*. The voyage had lasted a year ; it was to be prolonged by an order for the ship to go to Rotterdam ; and it was admitted in the argument, that by the same rule of construction the owners might have sent her on to Russia. The Court would be doing a great injustice to the mariner, if it put such a construction upon this contract, as to say, that he had been guilty of such a disobedience as to effect a total forfeiture of his wages. Let the power of change, reserved in this case by the owners to themselves, be announced to the other contracting parties, that each may act for his own interest. The seaman is entitled to know the covenants which are to bind him. Here an alteration of the voyage takes place, perfectly unforeseen and un contemplated by the sailors, and it detains the ship out for a month. I cannot, under the terms of this contract, consider that they are bound to accede to it ; their conduct, in my opinion, amounts to nothing like a desertion.”*

In a subsequent case the voyage was described in the ship’s articles—“ From London to Madras and Calcutta, and back to London.” The vessel arrived in Madras roads, where she landed troops which she had carried out, and there a new charter-party was entered into for successive voyages, and she took on board other troops, with which she sailed to Prince of Wales’s Island, and from thence to Calcutta. It was admitted that the seamen were, on account of the deviation, “ entitled to their discharge at Madras, if it had

* Countess of Harcourt, *Bunn*, 1 Hagg. A. R. 248.

been demanded, and at Calcutta after the cargo *had been unloaded.*"

The delivery of stores put on board at London, was commenced immediately after the arrival at Calcutta; the crew demanded their discharge and refused to work, but the greater part of them returned to their work on a promise that they should have their discharge if they were entitled to it. The seaman (Smith) who instituted a suit for his wages, and eleven others, *persisted in refusing to work*, and they were put in irons. After the delivery of the cargo they were released, and informed that the forfeiture of their wages, supposed to have been incurred, would not be insisted on, if they agreed to continue with the ship; but they quitted the ship. In this case the whole wages were decreed to be paid *up to the day when the cargo was all delivered.*

The judgment in this case, contains matter of importance *with respect to deviations*, and is therefore stated in the words of the learned Judge.

"It is hardly necessary to discuss the general principles of law respecting deviations, because it is admitted that the deviation was such as might have entitled the men to their discharge at Madras or Calcutta, if it had been properly demanded. The reference which has been made to the cases decided by my predecessor fully sustains that admission; and it may not be improper to observe, that wherever a different principle has prevailed, it has always been required that any alteration of the original voyage that the owners or masters may make, shall be accompanied with notice and compensation to the mariner.

“ By the Danish code, mariners are not allowed to leave their master on account of the enlargement of the voyage by a different destination, but an increase is made to their wages; and in Vanlinden’s ‘ *Institutes of the Laws of Holland*,’ I find this passage :—‘ With respect to the hiring of sailors, there is this distinction between it and a hiring or engagement for any other service,—that the master, although he alter the voyage, may compel them to remain in the service, provided he makes them a reasonable addition to their wages.’ I cite these foreign ordinances to show, that on the harshest construction of the duties of sailors, something is required from the master in the way of compensation, to reconcile them to their new engagement. The law of this country puts a freer construction on the service of mariners, as well as of other persons. It requires them, indeed, in ordinary cases, to stay by the ship till the discharge of the cargo; but this is a duty which relates to a subsisting contract, where the other party has done nothing to supersede it. Where it has been interrupted, and this strict obligation between the parties has been loosened or relaxed by a clear breach of contract, or by ambiguous conduct on the part of the master, raising reasonable doubts as to its continuance, it can be explained only on the broad principles of equity and reciprocal justice.

“ In the present case no cause is assigned for the deviation, which connects it in any manner with the general object of the voyage, as growing out of accident, or over-ruling authority. It appears to have been perfectly spontaneous, and to have originated in a new charter-party entered into at Madras.

“On the subject of deviation—in our own law, I find cases in which the necessity of going to Petersburg for a cargo which the master had been disappointed of obtaining at Hamburgh, and alterations arising from stress of weather, or the order of the Government, have been held not to be deviations amounting to a breach of the mariners’ contract, such as would entitle them to their discharge; and, in maritime engagements, allowances are often made in the interpretation of general terms, according to the accidents affecting the common object of the original voyage. But when no such ground of exception exists, justice and policy concur in requiring a strict observance of the specified conditions of the contract; and in the present times, especially, of increased enterprise in distant commerce, considerations of this kind gain additional force from the length of voyage and extent of time for which such engagements are formed.

“On the question as to which party ought to have spoken first in making or demanding the explanation, I cannot but feel that it is a little hard on the Court to be required to put a severe and penal construction on such reserve as is imputed to the mariners, when a little more frankness of behaviour on the part of the master might have reduced every thing to an amicable understanding between them. Now that it is admitted that the deviation was such as to have entitled the mariners to their discharge at Madras if it had been demanded, and at Calcutta after the cargo had been unloaded, I have a right to say, that the master would have done well, and I think no more than his duty, if he had treated the question openly on that principle,

either at Madras, or before their arrival in the river Hoogley."

With reference to the refusal to work at Calcutta, the judgment proceeds,—“Though I think the mariners acted hastily and imprudently, and perhaps illegally in refusing to continue to work in the discharge of the remaining part of the cargo at Calcutta, I do not think that I can justly or equitably pronounce that they have thereby incurred a forfeiture of the wages earned in the former parts of the voyage. With respect to that small portion which may be connected with the delivery of the cargo, it is to be recollected that, by the deviation, they were thrown into doubt and uncertainty, which may justly operate in extenuation at least, if not in perfect justification, of their conduct. They are entitled also to some allowance for the imprisonment which they suffered. I think also that the use made of the supposed forfeiture to constrain them to sign new articles for indefinite voyages, under a representation that on those conditions only their wages would be paid to them, was an undue advantage taken of them, in the doubt and uncertainty in which they were placed by the acts of the master. I pronounce, therefore, for the whole wages, and will only add the expression of a hope, that what has happened in this case, and in others that have been decided on the same principle, will be a caution to masters and owners, on these distant voyages, to act with frankness and liberality to the crew, in respect to any deviations that may affect their interest. It is by such treatment only that they can expect to retain good seamen in their employment; and it will be found

ultimately to be the only beneficial principle on which such engagements can be regulated. If contingencies are incident to such voyages, and can be foreseen, they should be provided for in the ship's articles. If they arise unexpectedly, power should be given to the master to make compensation for any deviation that may be legally considered to affect the original contract."*

In a case determined since the passing of the statute (5 and 6 Wm. IV., c. 19,) the voyage was described in the agreement in the following terms :—"From the Port of London to Swan River, Western Australia, from thence to any port or place in the Indian or China seas, and during her stay and trade there until her return to a port of discharge in Great Britain or Continent of Europe (in either case the voyage to end in Great Britain), and the cargo delivered if required, and term of time not to exceed three years."

On the ship's arrival with a cargo at Cowes the ship was ordered to Holland, and the seamen went on shore to seek advice. They were arrested and taken before the magistrates sitting at Newport, and, refusing to return to their ship, they were committed for thirty days. Three of them sued for their wages, and Dr. Lushington, the present learned judge of the Court of Admiralty, said, "I have to consider the effect of the statute which has passed since the decision in the case of the *George Home*. By the statute of George II. it was necessary to state the voyage in the articles; by the later act, the words 'nature of the voyage' have been substituted in lieu of the former expressions.

* Cambridge, *Barber*, 2 Hagg. A. R. 243.

I must presume that this was advisedly done, and must give a rational construction upon the import of such alteration. I must therefore consider these words as relaxing the strictness of the obligation before imposed. But to what extent? To such an extent as may accord with the reasonable convenience of trade, and at the same time afford to the mariner as much certainty as to the import of his contract as is consistent with that convenience.*

“On the one hand I am bound to consult the interest of the mercantile world: on the other hand to give protection to the mariner. Now are the articles in the present case as explicit as the convenience of trade will allow? I am of opinion that they are not; I think that nothing would have been easier than to have specified in clear and intelligible language all that the owners could have desired to have done. Lord Stowell, in delivering his judgment in the case of the *George Home*, has himself explained how this object might have been effected;† and had any ulterior intentions been entertained, how easy would it have been to have expressed them by simply stating ‘to a port of discharge in Great Britain, or in the North of Europe.’ Looking at the tenor of the articles in the present case I am of opinion that the terms which are used

* The new Act as we have seen requires the intended voyage to be described, but if that cannot be done the *nature* of the voyage is to be stated.

† Lord Stowell said that the contract ought to have stated that the ship was to call at Cowes for orders for the delivery of the cargo in England, Holland, or in the Ports of the North Sea.

give the mariner no intimation whether he is to winter in the frozen regions of the North, or perform an easy service in the luxurious climate of Naples or Trieste. I am yet to learn that such comprehensive ambiguity is necessary for the purposes of trade ; and if not necessary, I cannot believe that a just construction of this statute will impose any such grievance upon the seaman. I am of opinion that the statute does not confer upon these articles a validity which they certainly would not have possessed if framed before the statute passed. I must therefore pronounce sentence in favor of the claim set up by the mariners in this case."*

The agreement in schedule (B.) must describe the nature of the ship's employment, whether in fishing on the coasts of the United Kingdom, or proceeding from one part of the United Kingdom to another, or to any of the islands of Jersey, Guernsey, Alderney, Sark, and Man, or to any place on the Continent of Europe between the river Elbe inclusive and Brest.

A space is left in the forms schedule (A.) and (B.)† for the insertion of any other clauses which the parties may think proper to be introduced into the agreement, provided that the same be not contrary to or inconsistent with the provisions and spirit of the act. The improved provisions of the 7 and 8 Vict. c. 112, have diminished the need of special clauses, and in general it will be better to avoid the insertion of any other

* Westmorland, *Brigstock*, W. Rob. A. R. 1, 216.

† These and all the other forms in the schedule will be found at the end of the Act in the appendix.

stipulations than those contained in the prescribed forms; but when any such special clauses are adopted, they should be specifically pointed out and explained to the seamen before they sign the agreement.*

Before the passing of the statute 5 and 6 Wm. IV., c. 19, it was held that any stipulations tending to prevent insubordination and promote "the good management and discipline of a ship" might be introduced into the ship's articles;† and since that statute came into operation the Court of Queen's Bench has given effect to additional clauses in an agreement for a *South Sea* voyage, stipulating among other things "that none of the crew should excite, or cause to be excited, commotion or strife, or do any thing to occasion mutiny, disobedience of orders, insubordination, or other bad or improper conduct on board the ship."‡

The peculiarity of the *Baltic* trade renders a special clause necessary, if it be intended to put the seamen upon half wages in the event of the ship becoming ice-bound. In the case of the *Hoghton*, the Court of Admiralty gave effect to such a stipulation for half wages, and decided against the mariners, who alleged that the ship did not winter abroad *on account of the ice*, and claimed their whole wages. The vessel went out late in the year, almost in ballast, to seek a return freight; every exertion was made at *Riga* to get a freight, but without success: the frost set in, and she was detained till April. In the course of his judg-

* *Hoghton*, *Brady*, 3 Hagg. A. R. 100.

† *Weatherpen v. Laidler*, 8 Moore, 37.

‡ *Renno v. Bennett*, 3 Ad. & Ell. new series, 768.

ment Sir John Nicholl said, "Was she immediately, when winter began, to return in ballast and make no freight? That could not be the understanding of the contracting parties: it would have entirely defeated the whole object of the voyage. The master had a reasonable cause for waiting, and while so doing the frost set in. I have no hesitation in holding that the circumstances of the case bring it fairly within the true construction and meaning of the contract."*

All masters and owners are prohibited from introducing into any agreement any clause, engagement, or stipulation whereby any seaman or other person shall or may incur any forfeiture or be exposed to loss in case he shall enter into Her Majesty's naval service; and if inserted, the clause, engagement, or stipulation is declared to be void, and the offender is made liable to a penalty of twenty pounds. (7 and 8 Vict. c. 112, s. 50.)

Section 5 enacts that no clause, contract, or engagement whereby any seaman shall consent or promise to forego or give up any right or claim to wages in the case of freight earned by a ship subsequently lost, or any right or claim to salvage or reward for salvage services, or such proportion of salvage or reward for salvage services as shall or may be due to him by decree or award, or otherwise, shall be valid or binding on such seaman.

The statute does not render a verbal agreement for wages absolutely void, but imposes a penalty on the master who shall neglect to make an agreement in

* Houghton, *Brady*, 3 Hagg. A. R. 100.

writing.* The rule of law that when a written agreement is made it becomes the only evidence of the contract between the parties has been enlarged by sections 5 and 25, which provide that every copy of a document and endorsement thereon, which may be delivered by any owner or master under the provisions of the act, may be admitted in evidence against such owner and master as fully as the original document, and that in case the agreement shall not be produced and proved, the seaman shall be at liberty to prove the contents or purport thereof, or to establish his claim by other evidence, according to the nature of the case.

The Court of Admiralty has sustained suits for seamen's wages in cases where no rate of wages was affixed to the seamen's names in the agreements.†

But a seaman cannot recover any sum beyond the stipulated wages, as an additional reward for his services. Even a promise made by the master *when a ship was in distress*, to pay an extra sum to a mariner, as an inducement to extraordinary exertion on his part, was, at a trial before Lord Kenyon, esteemed to be wholly void.‡ So where two of the crew deserted in the course of a voyage, and the master having in vain attempted to supply their places at Cronstadt, entered into an agreement with the crew at that place to divide among them the wages of the deserters, Lord Ellenborough decided that the engagement was wholly

* Abbott on Shipping (Shee's ed.) 550.

† Harvey, *Peach*, 2 Hagg. A. R. 79. Prince George, *Shaw*, 5 Hagg. A. R. 376.

‡ Harris v. Watson, Peake's N. P. cases, 72.

void.* His lordship said, there was "no consideration for the ulterior pay promised to the mariners who remained with the ship. Before they sailed from London, they had undertaken to do all they could under the emergencies of the voyage; they had sold all their services till the voyage should be completed. The desertion of a part of the crew is to be considered an emergency of the voyage, as much as their death, and those who remain are bound by the terms of their original contract to exert themselves to the utmost to bring the ship in safety to her destined port."

So in a case where the Plaintiff signed articles as an able seaman at 35s. a month, but acted as cuddy servant, and claimed additional wages for his service in that capacity, Abbott, C. J., said. "The ship's articles are conclusive, if a man signs the articles as a seaman, he can recover no more wages than are there agreed for, however he may be employed on board the ship.†

A second mate succeeding a chief mate in the course of a voyage, is entitled to a similar rate of wages as his predecessor, although there was no fresh contract nor alteration of his rate of pay in the agreement.‡

"If after the hiring of seamen the owners of a ship do not think proper to send the vessel on the intended voyage, the seamen are to be paid for the time during which they may have been employed on board the ship. And if they sustain any special damage by

* *Stilk v. Myrick*, 2 Camp. 317.

† *Dafter v. Creswell*, 2 C. & P. 161.

‡ *Providence, Herd*, 1 Hagg. A. R. 391. *Gondolier, Rhodes*, 3 Hagg. A. R. 190.

breaking off the contract, it seems reasonable also that they should recover such damage by action upon the agreement.”* But if the ship shall have prosecuted her voyage, a seaman unduly discharged before its commencement may sue for his wages in the Court of Admiralty, where it seems he may recover the amount of such wages for the whole voyage, subject to a deduction of the sum earned by him in the mean time.† If the seamen do not sign the agreement when they join the ship, they cannot be compelled to remain. They are at liberty to leave at any time before signing it; and if they leave, the master will be liable to a claim for wages while they work on board, because he treats them as labourers rather than seamen, and leaves them an option to quit.

The Log-book is the next point to which the master’s attention is to be directed. That should be commenced with the hiring of the seamen, because the section which imposes forfeitures upon seamen for neglect of duty and absence without leave, provides, that no such forfeiture shall be incurred unless the fact of the seaman’s absence, neglect, or refusal to perform his duty shall be duly entered in the ship’s log-book, the truth of which entry it is incumbent on the owner or master in all cases of dispute to substantiate by the evidence of the mate, or some other credible witness. (s. 7.)

It is recommended that the strictest attention be paid to the entries of such matters in the log-book.

* Abbott on Shipping, (Shee’s ed.) 563.

† City of London, *Reynolds*, W. Rob. A. R. 1. 88.

A judicious use of such entries during the voyage will sometimes be found beneficial; for if an obstinate or disorderly seaman be reminded of such entries, and told that for every day's neglect of duty recorded in the log-book, he will incur a forfeiture of six days' pay, he may be occasionally taught the wholesome lesson of obedience through motives of self-interest.

Every ship navigating between the United Kingdom *and any place out of the same*,* shall have and keep constantly on board a sufficient supply of medicines and medicaments, suitable to accidents and diseases arising on sea voyages, in accordance with the scale which shall from time to time be issued by the Lord High Admiral, or by the Commissioners for executing the Office of Lord High Admiral, and published in the London Gazette; and every ship (except those bound to European ports, or to ports in the Mediterranean Sea) shall also have on board a sufficient quantity of lime or lemon-juice, sugar and vinegar, the lime or lemon-juice, sugar and vinegar to be served out to the crew whenever they shall have been consuming salt provisions for ten days; the lime or lemon-juice and sugar daily after the rate of half an ounce each per day, and the vinegar weekly at the rate of half a pint per week, to each person, so long as the consumption of salt provisions be continued; and in case any default shall be made in providing and

* This applies to ships sailing to the Islands of Jersey, Guernsey, Alderney, Sark, and Man, which are *out of the United Kingdom*, and also to steam and other vessels "making regular voyages to any Port on the Continent of Europe, between the river Elbe inclusive and Brest."

keeping such medicines, medicaments, and lime or lemon-juice, sugar and vinegar, the owner of the ship will incur a penalty of twenty pounds for each and every default. (s. 18.)

And every ship having 100 persons or upwards on board, and every ship the voyage of which shall be deemed, under the provisions of the Act (6 Vict. c. 107.) "for regulating the carriage of passengers in merchant vessels," to exceed twelve weeks, having 50 persons or upwards on board, shall have on board as one of her complement, some person duly authorized by law to practise in this kingdom as a physician, surgeon or apothecary; and in case of every default, the owner will incur a penalty not exceeding one hundred pounds. (*id.*)

The master of every ship belonging to any subject of Her Majesty, and bound to parts beyond the seas, (except ships proceeding to any of the islands of Jersey, Guernsey, Alderney, Sark, and Man, or to any port on the Continent of Europe between the river Elbe inclusive and Brest) is required, *before he leaves his first port of departure from the United Kingdom*, to transmit or deliver, or cause to be transmitted or delivered to the Collector and Comptroller of Customs at such port, a list, signed by himself, of the names of his crew (including apprentices,) with the numbers of their register tickets, and the capacity in which they are serving on board, in the form set forth in schedule (G) to the Act annexed; *and if any subsequent change in his crew take place before finally leaving the United Kingdom*, the owner or master is required, upon such change taking place, to apprise the Collector and

Comptroller of the Customs at the port where it occurs, by transmitting an amended list in the same form; and every owner or master who shall refuse or neglect to transmit, deliver, or cause to be delivered, any list, account, register ticket or other document, as required by the act, will for every such refusal or neglect be liable to forfeit the sum of ten pounds. (ss. 26 and 29.)

The masters of all apprentices are required *before commencing a voyage* to bring all indentures and assignments of apprenticeships, *together with the apprentices themselves*, to the Registrar of Seamen in London, or to the Custom House of the nearest port, in order that each of such apprentices may be furnished with a register ticket, which ticket is to be annexed, and to be kept annexed to the original indenture, retained by the master, and to be delivered up to the apprentice by the master at the expiration of the apprenticeship. (s. 20.)

And if any master or owner to whom any apprentice to the sea service shall be bound or assigned, shall neglect to deliver a counterpart, and cause the indenture or the assignment (as the case may be) to be registered as required by the Act, so far as depends on such master or owner, *within ten days after the binding or assignment*, every such master or owner for every such neglect will be liable to forfeit the sum of ten pounds. (s. 42.)

The 32d, and four following sections of the Act, regulate the binding by indenture, according to the form in schedule (H), and assignment of parish apprentices to the sea service, and impose on the parish officers the duty of transmitting counterparts of

indentures; but the 40th section, which prescribes a form in schedule (I.) for the binding of persons not being parish apprentices to the sea service, makes it necessary for the master to deliver a counterpart to the Registrar, if the master shall be or reside within the Port of London, or if at any other port, to the Collector or Comptroller of such port.

No payment or contribution to or towards any hospital or institution is to be made in respect of any such apprentice; and all agreements, attested copies, indentures, assignments, counterparts, and tickets made under the provisions of the Act, are wholly exempted from stamp-duty. (s. 41.)

In case any seaman, whether before the commencement or during the progress of any voyage, shall at any time neglect or refuse to join the ship on board of which he shall have engaged to serve, or shall refuse to proceed to sea in such ship, or shall absent himself therefrom without leave, or shall desert, any Justice of the Peace in and for any of Her Majesty's dominions, or the territories under the government of the East India Company, where or near to the place where such ship shall happen to be, or where such seaman shall be found, is authorized and required, upon complaint made upon oath by the master, mate, or owner, or his agent, to issue his warrant and cause such seaman to be apprehended and brought before him; and in case such seaman shall not give a reason to the satisfaction of such Justice for his neglect, refusal, or absence, as the case may be, or in case of desertion, such Justice is required, upon due proof of such neglect, refusal, absence, or desertion, to commit

such seaman to prison, or to the house of correction, there to be imprisoned, with or without hard labour, at the discretion of such Justice, for a period not exceeding thirty days: or such Justice may, at the request of the master, mate, or owner, or his agent, instead of committing such seaman, cause him to be conveyed on board the said ship, or to be delivered to the master, mate, or owner, or his agent, for the purpose of being so conveyed and proceeding on the voyage, and also to award to the master or owner such costs incurred in the apprehension of the seaman as to such Justice shall seem reasonable, not exceeding in any case the sum of forty shillings, which shall be chargeable against and may be deducted from the wages of such seaman; and whenever any seaman shall be committed to prison or to any house of correction, the Justice is required to cause his register ticket to be delivered to the Governor or Keeper of such prison or house of correction, who shall retain the same during the period of the seaman's imprisonment, and at the expiration of such period shall return the register ticket to the seaman; and whenever a seaman shall be sentenced to death or transportation, the officer having the custody of such seaman shall transmit his register ticket to the Registrar of Seamen. (s. 6.)*

* It frequently happens that when application is made to a Justice under this section, the vessel having proceeded to sea, the party making the application is unable to produce the agreement or ship's articles, and thus he cannot prove the fact of the seaman having signed the agreement; whereas, if a duplicate original of the agreement had been made, upon pro-

To facilitate the shipment of seamen, and in some degree to protect them from fraud, it is enacted, that "if any person shall wilfully harbour or secrete any seaman or apprentice who shall have deserted from his ship, knowing or having reason to believe such seaman or apprentice to be a deserter, every person so offending shall for every such seaman or apprentice so harboured or secreted forfeit and pay the sum of ten pounds," and that "no debt exceeding in amount five shillings, incurred by any seaman after he shall have engaged to serve, shall be recoverable until the service agreed for shall have been concluded; nor shall it be lawful for any keeper of a public house or of a lodging house for seamen to detain any chest, tools, or other property of any seaman for any debt alleged to have been contracted by him;" and in case of such detention, any Justice of the Peace at or near the place, upon complaint upon oath to be made by such seaman, or on his behalf, is authorized to inquire into the matter upon oath in a summary way; and if it shall appear to such Justice that the alleged claim is fraudulent, or the debt was not fairly incurred to the full amount of the claim, by warrant under his hand and seal to cause such effects to be seized and delivered over to such seaman; and the person so detaining the same is made liable to a penalty not exceeding ten pounds at the discretion of such Justice. (s. 10.)

The new stipulation inserted in the agreement to

duction thereof and proof of the hand-writing of the witness to the signature, the party offending might be proceeded against even after the sailing of the ship.

regulate the daily supply of provisions to the crew, is followed up by an enactment, that any Consul or Vice-consul, and any Collector or Comptroller of the Customs, upon complaint made by any three or more of the crew may survey and examine, or cause to be surveyed and examined, the provisions, water, and medicines put or supplied on board for the use and consumption of the crew: and if it shall be found that such provisions, water, or medicines are of a bad quality, or unfit for use, or not appropriate, or there shall not appear to be a sufficient quantity thereof, the surveying officer is required to signify the same in writing to the master; and if such master shall not thereupon provide other fit and proper provisions, water or medicines in lieu of any which may be signified by the said surveying officer to be of a bad quality, or unfit for use, or not appropriate, or shall not thereupon procure the requisite quantity of provisions, water and medicines, or shall use any which shall have been signified by the surveying officer to be of a bad quality, or unfit for use, or not appropriate, he shall in each and every of such cases be guilty of a misdemeanor. (s. 57.)

CHAPTER II.

OF THE DUTIES OF MASTERS AND SEAMEN DURING A VOYAGE.

THE entries required to be made in the log-book with respect to the seamen's conduct, deserve the master's particular attention during the voyage; for, unless such entries be made of the actual periods when any of the seamen absent themselves, or neglect or refuse to perform their duty, and of the times during which they shall respectively continue absent, or neglect or refuse to perform their duty, they will be entitled to their full wages notwithstanding such misconduct. This has been already intimated, but it is of sufficient importance to be again noticed at the commencement of this chapter, where it should be remarked that an especial form of entry is to be observed in cases of *desertion*. Every desertion is to be entered in the log-book at the time, and *certified by the signatures of the master and the mate, or the master and one other credible witness*.

The muster-roll should be commenced at the beginning of the voyage, and accurately kept throughout the course of it. By 4 and 5 Wm. IV. c. 52, s. 9, it is enacted, that the master or owner, or such other person as shall have the care of any merchant or other

private ship, shall keep a book by way of muster-roll, or account of the ship's company, signed by himself, in which shall be entered his own christian and surname, and the christian and surnames of all the officers, seamen, and other persons employed in such ship, and over against each name the age, place of birth, and quality of such seaman, or other person, and the time and place of his entering into the service of such ship; and such master or other person having the care of such ship, shall continue to keep such muster-roll during the whole course of the voyage, and shall, from time to time, enter therein when and where any such master, officer, seaman, or other person shall be discharged from or shall leave or desert such ship, and when and where any other officers and men shall be shipped on board, describing them in like manner as the persons who first entered on board are directed to be described, and when and where any of them received any hurt or damage, or were killed, slain, or drowned, or otherwise happened to die, in case there should be any such, together with a statement of the amount of wages due to them at the time of death or desertion, and of what clothes or other effects such deceased man shall have left on board; which said account shall be in the form, and shall contain a true and correct return, under their respective heads, of the several particulars expressed in the schedule to the said Act annexed. (Appendix, No. 2.)

And every master or other person in care of a ship, who shall neglect to keep such muster-roll or account, will be liable to a penalty of five pounds.

The master of every ship belonging to any subject

of Her Majesty is required to produce and show the log-book, muster-roll of the ship, and the agreement or agreements with his crew, their register tickets, and the indentures of his apprentices, and the assignments thereof, and a list of all the passengers and persons on board, to the captain, commander, or other commissioned officer of any of Her Majesty's ships requiring a production and sight thereof; and empowers any such officer to muster the crew, including apprentices, of any ship belonging to any such subject, in order to be satisfied that the provisions of the Acts by which the crews of such ships are regulated, and the laws relating to navigation, have been duly kept and complied with. Any master who shall, upon being required so to do by any such officer, neglect or refuse to produce such log-book, muster-roll, or agreement, register tickets, indentures, and assignments, and lists of passengers and persons, or any of them, or shall obstruct any officer in the execution of his duty in mustering the said crew, or shall produce any false log-book, muster-roll, or list, will for every such offence be liable to forfeit the sum of twenty pounds. (7 and 8 Vict. c. 112, s. 55.)

And Her Majesty's Consuls and Vice-consuls in foreign ports, and the Registrar of Merchant Seamen and his assistant, and the respective chief officers of the Customs at the several ports of the United Kingdom, and of the British possessions abroad, *may also demand*, from the master of every ship belonging to a subject of Her Majesty, *the production* of the log-book, muster-roll of the ship, and such agreements, register tickets, indentures, and assignments as afore-

said, and a list of passengers and persons on board, and may also muster the crew (including apprentices) of such ship, and may summon the master to appear before them and give any explanation they may respectively require regarding the said crew, ship or documents, *for the purpose of ascertaining whether the provisions of the Acts by which the crews of such ships as aforesaid are regulated, and the laws relating to navigation, have been kept and complied with*, and may take copies of all or any of such documents; and if any such master, on such demand being made, shall refuse to produce such log-book, muster-roll, agreements, register tickets, indentures and assignments, and list of passengers and persons, or refuse to allow copies to be taken, or shall refuse to permit his crew to be so mustered, or shall refuse to appear and give such explanation as aforesaid, or shall wilfully deceive or mislead the person before whom he shall so appear, he will for every such neglect, refusal, or offence, be liable to forfeit the sum of twenty pounds. (s. 56.)

If any ship belonging to a subject of Her Majesty (except packets for passengers in the course of their voyage) shall arrive at any foreign port where there shall be a British Consul or Vice-consul, or at any port in a British Colony, and remain thereat for forty-eight hours, the master is required, within forty-eight hours of the ship's arrival, to deliver, or cause to be delivered, to such Consul or Vice-consul at such foreign port, or to the Collector or Comptroller of the Customs at such port of a British Colony, the agreement or agreements before mentioned, *together with an account at the foot of such agreement of all apprentices*

on board, setting forth their christian and surnames at full length, the dates of the registry of their indentures and assignments respectively, and the ports at which and the time when they were registered, and also all indentures and assignments of apprenticeships, and the register tickets of all the crew who shall be subjects of Her Majesty, the whole to be kept by such Consul or Vice-consul, Collector or Comptroller, as the case may be, during the ship's stay in such port, and (excepting the register tickets of deserters, which are to be transmitted by such functionaries to the Registrar of Seamen,) to be returned to the master a reasonable time before his departure, with a certificate endorsed on such agreements respectively, stating when the same were respectively delivered and returned, without any fee or charge being made for the same; and in case it shall appear that the required number of apprentices are not on board, or that the required forms of existing laws have been in any respect neglected or transgressed, such Consul or Vice-consul, Collector or Comptroller, shall make an endorsement to that effect on such agreement, and forthwith transmit a copy of such endorsement, with the fullest information he can collect regarding such neglect or transgression, to the said Registrar; and any master who shall neglect to deliver any agreement, indenture, assignment or register ticket, or such account as aforesaid, will for every such neglect or default be liable to forfeit the sum of twenty pounds; or if any master shall deliver any false or incorrect account, he will for every such offence be liable to forfeit the sum of thirty pounds. (s. 53.)

The clauses prohibiting the discharge of any seaman,

or leaving any of the crew behind, at any place abroad, without the previous sanction of the authorities or persons therein named, are so highly penal as to require the most serious attention of all masters, mates, and other officers of merchant ships.

If any master of a ship belonging to a subject of Her Majesty *shall discharge any person* belonging to his ship or crew without such sanction (to be endorsed on the agreement), or shall *abandon or leave behind* any such person, on the plea or pretence of unfitness or inability to proceed upon the voyage, or of desertion or disappearance from the ship, without a previous certificate in writing (to be endorsed on the agreement) of the authorities or persons named in the Act; or if the master, mate, or other officer of such ship *shall wrongfully force on shore and leave behind, or shall otherwise wilfully and wrongfully leave behind on shore or at sea in or out of Her Majesty's dominions*, any person belonging to his ship or crew, before the completion of the voyage for which such person shall have been engaged, or the return of the ship to the United Kingdom, such master, mate, or other officer is declared to be guilty of a misdemeanor; and on conviction may be punished by fine and imprisonment.* (ss. 46, 47.)

And in case any person belonging to his ship or crew *shall desert* from the said ship at any place abroad, *and the master shall neglect to notify the same in writing* to one of the functionaries mentioned, if there be any such resident at or near the place, and

* These enactments in effect supersede 9 Geo. IV. c. 31, s. 7.

in their absence, if it be out of Her Majesty's dominions, then to two respectable merchants, if there be such at or near the place, *within twenty-four hours of such desertion*, such master is declared to be guilty of a misdemeanor, and liable to punishment as aforesaid. (s. 46.)

The *sanction* of a seaman's discharge, *if such discharge take place at any of Her Majesty's Colonies or Plantations*, is required to be that of the Governor or other officer holding the chief authority there, or of the Secretary or other officer duly appointed by the Government there in that behalf, or in the absence of such functionaries, then of the chief officer of Customs resident at or near such port or place; or if the seaman be discharged *at any other place abroad*, the sanction must be that of Her Majesty's Minister, Consul or Vice-consul there, or in the absence of any such functionary, of two respectable merchants resident there; and in all cases such sanction must be endorsed on the agreement. (*id.*)

In like manner should be so endorsed a previous *certificate in writing* of the Governor, Secretary, or other officer duly appointed by the Government in that behalf, or in the absence of such functionary, then of the chief officer of Customs resident at or near the port or place, certifying the unfitness, inability, desertion, or disappearance of any person *abandoned or left behind at any of Her Majesty's Colonies or Plantations* on the plea of unfitness or inability to proceed upon the voyage, or of desertion or disappearance from the ship. And if any such person be *abandoned or left behind upon such plea or pretence, at any other place abroad*,

the like previous *certificate* of Her Majesty's Minister, Consul or Vice-consul there, or in the absence of such functionary, then of two respectable merchants, if there be any such at or within a reasonable distance from the place where the ship shall then be, must be endorsed on the agreement. (*id.*)

And the said functionaries are authorized and required, and the said merchants are authorized, to examine into the grounds of such proposed discharge, or into the plea or pretence of such unfitness, inability, desertion, or disappearance, as aforesaid, in a summary way, upon oath (which oath they are respectively authorized to administer), and to grant or refuse such sanction or certificate according to the circumstances, and as it shall appear to them to be just. (*id.*)

It is essential to the master's protection from the serious consequences of any neglect of these enactments, that he should on no occasion omit to get the required sanction or certificate endorsed on the agreement, previous to the discharge or leaving of any seaman behind in foreign parts. The corresponding clauses in the repealed act have not been so accurately complied with as they should have been, and the law has, perhaps, on that account been made more stringent and penal. Masters will not be justified in neglecting to obtain such sanction or certificate in the most usual cases which occur of leaving seamen in any hospital or prison, because the statute declares that if any master shall, contrary to its provisions, discharge, abandon, or leave behind any seaman or other person belonging to the ship or crew, with or without his consent, *it shall be incumbent on such*

master, in any information, indictment, or other proceeding against him, *to produce or prove such sanction or respective certificate* as aforesaid, *or prove the impracticability of obtaining such certificate.* (s. 48.)

In a case recently tried in the Central Criminal Court, upon an indictment charging a master with wrongfully and wilfully leaving behind two persons belonging to his crew, it was held that the only answer he could give would be either to prove the certificate, or show the impossibility of obtaining it; and not having done so, he was found guilty.*

“Every such master who shall leave any seaman or other person as aforesaid on shore at any such colony or plantation or place abroad, under a certificate of his not being in a condition to proceed on the voyage, shall deliver to one of the said functionaries, or if there be none such, to any two respectable merchants there, or if there be but one, then to such one merchant, a just and true account of the wages due to such person, and pay the same, either in money or by a bill drawn upon the owner; and if by bill, then such functionaries or merchants are respectively authorized and required, by endorsement on such bill, to certify that the same is drawn for money due on account of seamen’s wages, or to that effect: and any master who shall refuse or neglect to deliver a just and true account of such wages, or to pay the amount thereof in money or by bill as aforesaid, shall for every such offence or default forfeit and pay the sum of ten pounds; and every master who shall deliver a false account of such wages,

* *Regina v. Dunnett*, 1 Carr. and Kir. 425.

shall for every such offence forfeit and pay the sum of twenty pounds." (s. 49.)

If it should become necessary to hire a seaman during a voyage, either at any port in the United Kingdom or in parts beyond the seas, the same particulars with respect to such seaman must be entered in the proper columns of the agreement, with the port or place and time of entry correctly stated before his signature; and the agreement must be read over and explained in the presence of a witness to the seaman, and the same forms observed as upon the hiring of a seaman at the commencement of the voyage. If the hiring be at a *foreign port*, the sanction of the Consul or Vice-consul must be certified on the agreement, or the master will forfeit twenty pounds for every seaman so shipped. (s. 54.)

In the case of vessels trading "from and to places within the limits of the East India Company," and requiring to ship *Asiatic* seamen or Lascars for a voyage to the United Kingdom, it is necessary to comply with the rules and regulations under which such seamen or Lascars may be employed. (Appendix No. 5.)

The authority of the master to discharge a seaman during a voyage, although controlled by section 46, will be in some cases necessarily upheld by the functionaries or merchants who may be called upon to sanction such discharge. It is impossible to extract from the cases bearing on the subject any rule adapted to the various circumstances under which they may be required to exercise their discretion; but a few reported cases may be usefully stated for

their guidance, as well as for the information of mariners.

The case of the "Elizabeth" is interesting as well as important. The ship on her passage home from St. Petersburg to Portsmouth ran on shore on the Isle of Gothland. The crew, with assistance, got her off in a damaged state, and carried her into port for repairs, which could not be completed whilst the season for navigating the Baltic lasted. Under these circumstances, the master proposed to the crew, that they should be discharged and return to England, in order to save the expense of maintaining them during the whole winter there. The crew remonstrated and stated to him that, having signed articles for the whole voyage, they were entitled to remain by the vessel and to return in her to England; upon which he repeated his determination of sending them home, stating that from that day they were no longer to consider themselves as belonging to the ship, or under his charge; and that he had provided carriages to convey them and their luggage to Wisby. The crew were consequently compelled to proceed to Wisby, where the agents of the vessel supplied them with a pass, which had previously been procured by order of the master, and they there embarked for London, where they arrived in January. They applied to the owners for the wages which they insisted were due, up to the time of the ship's return to England, which was not till the April following. The owners contended that the crew had voluntarily accepted their discharge, and that they were bound to pay only up to the time of the actual discharge so accepted by the crew. The learned

Judge, Sir W. Scott, decided that it could not be deemed a voluntary acceptance of a discharge, because it was proposed in a form that admitted of no liberty of refusal, but was a choice of evils of which a man is compelled to take one; it was only in the alternative that if they did not accept their discharge, they must starve in the foreign country. He then proceeded to the main question as to the master's "right to dismiss the mariners upon proper conditions; and with a due responsibility for the performance of such conditions," and said, "I confess it appears to me, that the circumstances in which this vessel was placed did vest in him an authority to discharge his crew, upon proper conditions. I know and feel the partiality which the maritime law entertains for this class of men, but it must not overrule all consideration of justice to other classes, particularly to merchants, their employers; for what is oppressive to the merchant cannot but be injurious to the mariner. The seaman cannot be ultimately benefited by that which, as far as it operates, must operate to the discouragement of navigation.

"It has been said that the master can have no right to dissolve the contract, because the seamen cannot; and one party cannot be bound and the other loose: this mutuality is not a quality adhering to this species of contract throughout—not even in its commencement. A mariner signs a contract for a particular voyage; he cannot decline to go; he is exposed to heavy penalties if he does. But how is the master bound for the owners? He may change his mind at any time before he quits port; he may vary the voyage—the seaman cannot compel him to proceed

upon it; all he can require is to be paid for the time he has served the ship in port, if he does not choose to accompany her on her new destination. The law allows, and justly allows, a greater discretion to the one party than to the other, for the one stipulates for his own labour—the other not only for the labour, but for the beneficial employment of valuable property confided to him by his owners, and subject to their direction.

“ I have looked with some anxiety to find, if possible, a decided case, or a rule of authority, that could be applied to the discretionary powers of a master in such circumstances; but I have found none. The cases where the rule has been provided for, are those where the seaman has been wrongfully discharged. There he has in most countries a right to charge up to the time of the return of the vessel to her original port. Such is the rule of the civil law. These, however, are cases where there was tyranny, passion, and injustice on the part of the master, that warranted a penal retribution against him or his owners. But here is a case arising from mere misfortune, and approaching to almost a necessity. The rule to be applied must not be founded upon any idea of penal retribution, but upon just ideas of a fair protection to be given to the seaman, under the casual and common misfortune that has occurred. See what his real damage and loss has been; compensate that, and then real justice and all honest policy is satisfied.

“ Take the ship when it came in this shattered condition into the Isle of Gothland. Suppose there happened to be at that time a ship bound to the port of

London, ready to depart, but wanting a crew; that this ship accepted this crew, and upon the same terms; and that the ship so navigated comes to England in the ordinary course of such a voyage, what damage can be assigned by the mariners in such a case? They return to their own country, at the same wages and in the same time, which they contemplated in their contract. It is a mere change of *vehicle*, not of *interest*. Surely no court would uphold them in their claim to stay by their own unfortunate ship, and to make a profit out of the misfortunes of their owners, if their owners were willing to discharge them. In this case there was certainly no such ship offered; but supposing them to be carried at the expense of their owners to a port, where a ship offered to convey them to their country, not as crew, but as passengers, what is their just claim? Certainly, in the first place, to have their passage paid—that is out of all question; and if their wages are likewise paid by their owners up to the time at which they are landed in their own country, how are they damnified? They have all that they could have under their first contract; they are set down where they were taken up in their own country, and with the same money in their pockets, and open for fresh employment. I am, therefore, clearly of opinion, that they have no right to charge, as they have done in this case, for wages up to the return of the ‘Elizabeth.’ I think the master had a right to discharge them under such circumstances of extreme pressure. They did right by acting upon this discharge, and if they are paid their passage and their wages up to the time of their return, they have all

they can demand against their innocent owners. In this I go quite as far as the partiality of the law for this class of men will carry me; to go further would be to gratify an unwarrantable pretension. This is the rule which I am disposed to extract, from considerations of private equity and public policy, in a case not provided for by any existing regulation, either in the ordinances or decisions of this country, or in the books of authority given to the world by ancient jurists.”*

It has been observed that deviations in the course of a voyage amounting to a breach of the agreement, will entitle a seaman to claim his discharge.† Refusal of necessary provisions has been determined to be a sufficient ground for a seaman leaving a ship. In the case of the “*Castilia*,” the judgment concludes in these words:—“The men had no breakfast, and there was the same prospect with regard to dinner. I am therefore of opinion that the departure of the seaman was justified, and that he is entitled to his wages.”‡ Neglect of duty, disobedience of orders, and habitual drunkenness, are grounds to justify the discharge of a seaman during a voyage;§ and Lord Stowell, when speaking of mutinous expressions used by a seaman, including a refusal to obey orders and to submit to be controlled by the captain, intimated that it was the duty of the latter, “as it was within his power, to give himself redress by an immediate discharge of the seaman.”||

* *Elizabeth, Gull*, 2 Dodson A. R. 409.

† Page 18. ‡ *Castilia, Stewart*, 1 Hagg. A. R. 59.

§ *Abbot*, (Shee’s ed.) 584.

|| *Ealing Grove, Falconer*, 2 Hagg. A. R. 15.

But "nothing can be more generally or more peremptorily laid down, than that a master discharging a seaman *wrongfully* is answerable for the whole wages of the voyage." * "If a master, *in violation of his contract*, discharges a seaman from the ship *during a voyage*, the seaman will be entitled to his full wages up to the prosperous determination of the voyage, deducting, if the case require it, such sum as he may in the mean time have earned in another vessel." †

It is provided, that whenever any ship whatever, belonging to any subject of Her Majesty, shall be sold, transferred, or disposed of at any port out of Her Majesty's dominions, in all such cases (unless the crew in the presence of the British Consul or Vice-consul, or in case of there not being any such Consul or Vice-consul, then in the presence of one or more British resident merchants, not interested in the said ship, shall signify their consent in writing to complete the voyage if continued), or whenever the service of any seaman shall terminate at any place out of Her Majesty's dominions, the master shall give to each of the crew and to each of the seamen whose service shall terminate as last aforesaid, a certificate of discharge in the form set forth in schedule (E), and also his register ticket, and, besides paying the wages to which they shall respectively be entitled, shall either provide them with adequate employment on board some other British vessel homeward-bound, or furnish the means

* Elizabeth, *Gull*, 2 Dodson A. R. 409.

† Abbott, (Shee's ed.) 552.

of sending them back to the port in Her Majesty's dominions at which they were originally shipped, or to such other port in the United Kingdom as shall be agreed upon between him and them respectively, or shall provide them with a passage home, or deposit with the Consul or Vice-consul, merchant or merchants as aforesaid, such a sum of money as shall be by them deemed sufficient to defray the expenses of the subsistence and passage of such seamen; and if the master shall refuse or neglect so to do, such expenses, when defrayed by such Consul or Vice-consul, or any other person on behalf of the seamen, shall be a charge upon the owner of such ship, except in cases of bartrary, and may be recovered against such owner as so much money paid to his use, together with full costs, at the suit of the Consul or other person defraying such expenses, or as a debt due to Her Majesty, in case the same shall have been allowed to the Consul out of the public monies, and if defrayed by the seaman, shall be recoverable as wages due to him; and in all cases of wreck or loss of the ship, every surviving seaman shall be entitled to his wages, up to the period of the wreck or loss of the ship, whether such ship shall or shall not have previously earned freight: provided the seaman shall produce a certificate from the master or chief surviving officer of the ship, to the effect that he had exerted himself to the utmost to save the ship, cargo, and stores. (s. 17.)

And in case any ship belonging to any subject of Her Majesty shall be lost, sold, or transferred, an account or list, signed by the master, of all the seamen and others (including apprentices) who shall

have belonged to the ship at any time during her absence from the United Kingdom, made out up to the period of such loss, sale, or transfer, in the form set forth in schedule (C.), shall, if practicable, be delivered or transmitted by the master or owner, at the time of the loss, sale, or transfer, to the Collector or Comptroller of the port to which the ship belongs, with all convenient speed, and in case such loss, sale or transfer shall take place out of the United Kingdom, within twelve calendar months at furthest after the loss, sale, or transfer of the ship. (s. 28.)

Whenever any seaman, being abroad, shall die *elsewhere than on board* a ship belonging to any subject of Her Majesty, leaving any money or effects, not on board his ship, Her Majesty's Consul or Vice-consul at or nearest to the place is required to claim and take charge of all such money and effects, and to dispose of the said effects, if he shall so think fit, and, after deducting all necessary and proper charges and expenses incurred in the collecting thereof, or by or on account of such seaman, to remit the balance, with a full account of such money or effects, to the President and Governors of the corporation "For the relief and support of sick, maimed, and disabled Seamen, and of the Widows and Children of such as shall be killed, slain, or drowned in the Merchant Service," to be by such President and Governors paid over and disposed of, in the same manner and under the same regulations as are provided by the Act 4 and 5 Wm. IV. c. 52, (hereafter noticed); and in case any seaman dying abroad *shall leave on board his ship any money, clothes or other effects, or be entitled to any wages*, the master

of the said ship is required to deposit the same, or the proceeds arising therefrom, with, and to pay such wages to, the President and Governors aforesaid, to be by them disposed of in the same manner as is provided by the said Act with respect to the wages of seamen dying on board ship, and to transmit to the said President and Governors at the same time a full account of such effects and wages; and on failure the master will forfeit a sum not exceeding fifty pounds, in addition to being accountable for such money, clothes, effects and wages; and in all cases of a seaman dying abroad, the master on his ship's return to the United Kingdom is required to deliver up to the said President and Governors the register ticket of such deceased seaman, and the said President and Governors, on the receipt thereof, shall transmit the same to the Registrar of Seamen. (s. 31.)

To the same effect is the 4 and 5 Wm. IV. c. 52, s. 30, which enacts that the wages due to any such seaman who shall have died *on board* during the voyage shall, within three months after the arrival of the ship in any port in Great Britain or Ireland, be paid to the trustees appointed under the said act at the said port, or to the receiver or collector or other authorized agent of the said President and Governors, where there are no such trustees, to and for the use of the executors or administrators of the seaman so dying.

Masters of ships belonging to subjects of Her Majesty are bound to receive distressed seamen in foreign parts or places, by the statute 11 Geo. IV. c. 20, which enacts, that the Governors, Ministers, Consuls, and other officers of Her Majesty in foreign parts, and

in places where there shall be no such, then any two British merchants there residing shall provide for and subsist all such seafaring men and boys, being subjects of the United Kingdom, who shall, by shipwreck or by any other means, or from any cause whatever, be driven to or cast away or left, or be in distress at any such foreign parts or places, or who shall have been discharged from any of Her Majesty's ships, and for so doing they shall be allowed so much *per* day, as hath been or shall be in this respect authorized by the Lord High Admiral, or the Commissioners for executing the office of Lord High Admiral; for the amount of which disbursements they shall send bills, together with proper vouchers, to the Commissioners, in order that, after due examination of such vouchers, payment of the amount thereof may be made to them; and the said Governors, Ministers, Consuls, other officers, and merchants, are required to cause such men and boys to be put or sent on board the first or any ship or vessel belonging to any subjects of Her Majesty, which shall be bound from thence or from the neighbourhood to any part of the United Kingdom, and shall be in want of men to make up their complement: and if there shall be no such ship in want of men within a convenient time, then they are to provide and order a passage home for such seafaring men and boys in the first ship or vessel of Her Majesty's subjects bound to any part of the said United Kingdom; and every master or other person having the charge of any such ship or vessel is required to receive and afford a passage and subsistence during the voyage to all such seafaring men and boys as shall be so sent on

board his ship, not exceeding four for every 100 tons of his ship's burthen; and every such master, on the production to the said Commissioners of a certificate under the hands of any such Governors, Ministers, Consuls, other officers, or merchants, specifying the number and names of the men and boys, and the time when they were so received on board; and upon making a declaration as to the number of days they were subsisted, and that he did not during that period want of his own complement of men, or if he did want any, then the number he so wanted of his complement, and for what time, he will be entitled to receive an allowance in respect of the subsistence and passage of each such man and boy (exceeding the number so wanting of his complement), according to such rate *per* day as in that behalf hath been or shall be authorized by the Lord High Admiral, or the Commissioners for executing the office of Lord High Admiral; and in case any master or other person having charge of any such ship shall neglect or refuse to receive on board his ship, and to subsist and give a passage to any such sea faring man or boy, every person so offending will be liable to a penalty of one hundred pounds for each man or boy he shall so neglect or refuse to receive, subsist, or give a passage to; which penalty is to be recovered by information, at the suit of Her Majesty's Attorney-General, in Court of Queen's Bench or Exchequer: and the Court in which any such information shall be prosecuted, is authorized to issue a commission or commissions for the examination of witnesses abroad, the depositions taken under which are to be received in evidence on the trial of such information.

If any person shall be discharged, or wilfully and wrongfully left behind or abandoned at any place beyond seas, in or out of Her Majesty's dominions, by any master, mate, or other officer, contrary to the before mentioned provisions, and shall become distressed and be relieved under the provisions of the said act (11 Geo. IV. c. 20); or if any person shall, as principal or agent, engage any subject of Her Majesty to serve in any vessel belonging to any foreign power, or to the subject of any foreign state, and such last mentioned person shall become distressed and be relieved as aforesaid, then, in addition to the wages due from such master or owner, or person making such engagement, and the penalties to which such master may be liable, Her Majesty shall be entitled to sue such master or the owner of the ship, or any person who shall have made such engagement as aforesaid, for all the charges and expenses which shall have been incurred in or for the subsistence, necessary clothing, and conveyance home, or burial (should he die abroad or before reaching home), of any such seaman or person relieved as aforesaid, together with full costs of suit. (7 and 8 Vict. c. 112, s. 52.)

The same Act provides for the more effectual prevention of the disgraceful and pernicious practice of desertion by seamen *in foreign parts*, (which has been long carried on with impunity), by subjecting every seaman who shall desert to the punishment of imprisonment, with or without hard labour, at the discretion of the justice before whom he shall be convicted, for a period not exceeding thirty days, and to the forfeiture of all his clothes and effects which he may leave on

board, and all wages and emoluments to which he might otherwise be entitled; and in the case of *desertion abroad, he will likewise forfeit all wages and emoluments whatever which shall be or become due, or be agreed to be paid to him from or by the owner or master of any other ship in the service whereof such seaman may have engaged, for the voyage back to the United Kingdom.* And if the master shall engage a substitute for a seaman deserting in parts beyond the seas, at a higher rate of wages than that stipulated in the agreement to be paid to the seaman so deserting, the owner or master of the ship will be entitled to recover from the deserter, by summary proceeding, any excess of wages, or portion thereof, which such owner or master shall pay to such substitute, beyond the amount which would have been payable to the deserter, in case he had duly performed his service pursuant to his agreement. And if such excess be not paid, either immediately or within such time as the justice ordering the same shall appoint, such seaman may be imprisoned only, or be imprisoned and kept to hard labour, for three calendar months. (ss. 6, 9.)

And a further discouragement of desertion abroad is provided by means of the seamen's register tickets, which are all to be delivered by the master, as before stated, to the British Consul or Vice-consul, at any foreign port where the ship shall remain forty-eight hours, if there be such functionaries at such port, and to the Collector or Comptroller of the customs, at any port in a British Colony, where the ship shall remain for a like period of time. The *tickets of deserters* are not to be returned by such functionaries, but to be

transmitted by them to the Registrar of Seamen; and as it is now an offence to carry to sea any seaman, being a subject of Her Majesty, *without having first obtained from him his register ticket*, a strict compliance with the terms of the act will render it impracticable for deserters to get shipped for a homeward passage, and even if they should succeed in obtaining a ship, their voyage home would be productive of no benefit to them, because the act subjects them to the forfeiture of their wages for such homeward voyage.

But in all cases of desertion it behoves the master to be very attentive to the regulations established by the act.

He must enter every desertion in the log-book at the time, and certify the same by his own signature and that of the mate, or his own and the signature of one other credible witness.

In case of *desertion in the United Kingdom* he must deliver up the register ticket of the deserter to the Collector or Comptroller of the Customs at the port.

In case of *desertion abroad* he must notify the same *in writing*, as before stated,* within twenty-four hours of such desertion.

And in all cases where the desertion shall occur in any of Her Majesty's dominions, or the territories under the government of the East India Company, the master, mate, or owner, or his agent, should make complaint to a Justice of the peace where or near to the place where the ship shall happen to be, or where such seaman shall be found, in order that such seaman may be apprehended and dealt with according to law.

* Page 45.

This latter particular of a master's duty is not now a discretionary matter in the case of desertion *in any of Her Majesty's dominions abroad*; because, as he will be guilty of a misdemeanor if he fail to notify the desertion in writing, or if he leave the deserter behind, without the certificate of the functionaries or merchants authorized to grant such certificate, he should, for his own sake and protection, proceed in the ordinary course of law to establish the fact of desertion, and entitle himself to such certificate.

The act furnishes a rule by which to determine under what circumstances the absence of a seaman from his ship is to be treated as desertion, by declaring that the absence of a seaman from his ship, *for any time within twenty-four hours* immediately preceding the sailing of the ship from any port, whether before the commencement or during the progress of any voyage, wilfully and knowingly without permission, or the wilful absence of a seaman from his ship at or for any time without permission, and under circumstances showing an intention to abandon the same and not return thereto, shall be deemed a desertion of and from the same ship.*

A brief notice of some reported cases will be of as-

* In the case of the "Westmorland" it was contended for the mariners, that the corresponding words of 5 and 6 Wm. IV. c. 19. s. 9. negatived any other desertion, and that they comprehended all the desertion that the law intended; but the learned Judge said that the statute in order to work such an effect must have gone further, and must necessarily have excluded the ancient law, and intimated his opinion that the statute did not exclude the ancient maritime law.

sistance in distinguishing desertion from the less serious offence of absence without leave :—

A man, hired as carpenter, arrived in a ship at Tangier, and was permitted by the master to go on shore upon the application of the British Consul, to perform some services required of him, where he remained a considerable time ; he was afterwards required by the master to return to his ship, but distinctly and positively refused to return to his proper duty. Lord Stowell held that the permission of absence that was given to him, was to be considered as accompanied with an implied obligation of return, and refused to countenance his claim for wages. This was therefore treated as a case of desertion.*

So in the case of a mariner, who left his ship at Jamaica, in consequence of having been told by the mate to go on shore, but who was ordered by the master to return and did not,—it was held to be desertion.†

But where a seaman had leave to go on shore for a stated period, and getting drunk did not return to the ship, but was carried before a magistrate and charged with desertion, Lord Stowell said, “ It no more resembles that than it does a robbery or a murder. The seaman had left his clothes on board and made no preparation for desertion, and his conduct on shore was the very reverse of what must have been the conduct of a man meditating an escape.” ‡

* Bulmer, *Brown*, 1 Hagg. A. R. 167.

† Jupiter, *Crosbie*, 2 Hagg. A. R. 227.

‡ Ealing Grove, *Falconer*, 2 Hagg. A. R. 22.

If seamen go on shore on the ship's duty, and when the boat is about to return, request permission to remain on shore to get some victuals, which is refused, and the boat goes without them, if they afterwards go and offer to return to their duty on board the ship, it is not desertion.*

In the case of the "Westmorland," which has been already noticed,† it was decided that the seamen by going on shore to seek advice as to the effect of the articles, and whether they were bound to proceed in the ship from Cowes to Holland were not guilty of desertion, for, said the learned Judge, "there was quite a sufficient degree of obscurity to justify the seamen in endeavouring to obtain information as to the extent of the obligations into which they had entered on signing the ship's articles. Common justice would require a reasonable time to elapse for the men to consider their situation under such peculiar circumstances, before the character of desertion could be conclusively fixed upon them."

No seaman or person belonging to any ship or vessel whatever (except apprentices) can be prevented from entering into the naval service of Her Majesty; and when any seaman shall quit any such ship or vessel in order to enter into Her Majesty's naval service, and shall thereupon be actually received into such service, *not having previously committed any act amounting to and treated by the master as desertion*,‡ he will be enti-

* Sigard v. Roberts, 3 Esp. 71.

† Page 25.

‡ To be treated as desertion, it must be entered in the log book at the time, and certified as before explained.

tled, immediately upon such entry, to have his register ticket and all his clothes and effects on board such ship or vessel delivered to him, and to receive from the master the proportionate amount of his wages up to the period of such entry, to be paid either in money, or by a bill on the owner; all which register ticket, clothes, effects, money or bill the master is required to deliver and pay to him accordingly under a penalty of twenty pounds; but in case the master shall have no means of ascertaining the balance, he shall make out and deliver to such seaman a certificate of the period of his service, and the rate of wages he is entitled to, producing at the same time to the commanding or other officer of Her Majesty's vessel the agreement with the seaman; and every such master, upon the delivery of such register ticket, clothes and effects, and the settlement of such wages, is to receive from such officer of the vessel into which the seaman shall have entered, a certificate of such entry, 'endorsed on the agreement, and signed by such officer; which such officer is required to give. (7 and 8 Vict. c. 112, ss. 50 and 51.)

But in a case where payment of wages to a seaman who had left a merchant vessel and entered on board H. M. S. Beagle was resisted, (although the statute 2 Geo. III. c. 36, s. 16, provided that such entry should not be deemed a forfeiture of wages,) on the ground of his misconduct, it was held that the seaman, who had been guilty of a refusal to work on one day, returned to duty on the next, and on the third day quitted the vessel in defiance of the master and with

opprobrious language, was not entitled to wages for a service so terminated by his own misconduct.*

No apprentice to the sea service will be at liberty to enter into the naval service of Her Majesty during the period of his apprenticeship without the consent of his master; but if, nevertheless, he shall voluntarily enter into such service, and shall be allowed by his master to continue therein, such master, in case he shall give notice to the Secretary of the Admiralty of his consent to his apprentice remaining in Her Majesty's said service during the residue of the term of his apprenticeship, will, upon the production of the indenture and assignment (if any), if duly registered and having the register ticket attached, be entitled to receive to his own use any balance of wages and prize money that may become due to any such apprentice until the expiration of his apprenticeship. (7 and 8 Vict. c 112, s. 45.)

If any such master or the master of any ship shall, after the ship shall have proceeded on the voyage upon which such ship may be bound, permit any apprentice to quit his service or the service of the ship, except for the purpose of entering into Her Majesty's naval service, every such master will, for every such offence, be liable to forfeit twenty pounds. (s. 42.)

If seamen who have by misconduct incurred a forfeiture of their wages should afterwards be set to work, except in time of distress, it seems that it would operate as a dispensation of the forfeiture. In a case where the ship ran aground, and the captain called on

* *Amphitrite*, *Morgan*, 2 Hagg. A. R. 403.

the plaintiff and other seamen who had refused to work, and had not been required to perform their duty for several weeks, to assist in getting the ship off, Lord Tenterden said, "I take it to be clear that when the ship had got aground, the captain might call for the assistance of the men to get her off without any waiver of his owner's rights, but this case goes much further; for after the ship is got off he continues them in employ till the ship is got into dock." *

In case of default of serving out such lime or lemon juice, sugar or vinegar, as aforesaid,† the master will incur a penalty of five pounds for each and every default. (7 and 8 Vict. c. 112, s. 18.)

By the statute "for registering Births, Deaths, and Marriages in England," (6 and 7 Wm. IV. c. 86, ss. 21 and 26.) if any child of an *English* parent shall be born at sea, on board of a British vessel, or if any of Her Majesty's *English* subjects shall die at sea, on board of a British vessel, the captain or commanding officer of the vessel on board of which the said child shall have been born or such death shall have happened, shall forthwith make a minute of the several particulars required in the statute to be inserted in the register according to the forms (Appendix Nos. 3 and 4 respectively,) touching every such birth and every such death, as the case may be, so far as the same may be known, and the name of the vessel wherein the birth or death took place, and shall, on the arrival of such vessel in any port of the United Kingdom, or by any other sooner opportunity, send a certificate of the

* *Train v. Bennett*, 3 C. and P. 3.

* Page 33.

said minute through the Post-office to the Registrar-General of Births, Deaths, and Marriages in England, who shall file the same, and enter a copy thereof under his hand in a book to be kept for that purpose in "The General Register Office," to be called the "Marine Register Book," and shall keep the said book with the other registers according to the provisions of the Act.

The general behaviour and demeanour of the master and seamen of a vessel towards each other, is a matter of great importance during a voyage.

"By the common law, the master has authority over all the mariners on board the ship, and it is their duty to obey his commands in all lawful matters relating to the navigation of the ship, and the preservation of good order: and such obedience they expressly promise to yield to him by the agreement usually made for their service. In case of disobedience or disorderly conduct, he may lawfully correct them in a reasonable manner; his authority in this respect being analogous to that of a parent over his child, or of a master over his apprentice or scholar. Such an authority is absolutely necessary to the safety of the ship, and of the lives of the persons on board. But it behoves the master to be very careful in the exercise of it, and not to make his parental power a pretext for cruelty and oppression. Except in cases requiring his immediate interposition, he should take the advice of the persons next below him in authority, as well to prevent the operation of passion in his own breast, as to secure witnesses to the propriety of his conduct. For the master, on his return to this country, may be called upon by action at law,

to answer to a mariner, who has been beaten or imprisoned by him, or by his order, in the course of a voyage; and for the justification of his conduct, he should be able to show, not only that there was a sufficient cause for chastisement, but also that the chastisement itself was reasonable and moderate, otherwise the mariner may recover damages proportionate to the injury received.*

“If the master strike a mariner without cause, or use a deadly weapon as an instrument of correction where moderate correction may be inflicted, and death ensue, he will be guilty either of manslaughter or murder, according to the rules and distinctions of the criminal law of England in analogous cases, all of which are applicable to persons in this situation. In the case of actual and open mutiny by the crew, or any part of them, the resistance of the master becomes an act of self-defence, and is to be considered in all its consequences from that point of view. But although the master may by force restrain the commission of great crimes, he has no judicial authority to punish the criminal, but ought to secure his person, and cause him to be brought before a proper tribunal of his country.”† In such cases the confinement should not be more severe or close than may be necessary for the safe custody of the offender. With regard to offences that are merely contrary to discipline and good order, although the law allows the master to correct in a reasonable manner, yet it may be frequently judicious to restrain the offender instead of giving him corporal

* Abbott (Shee's ed.) 155.

† Ibid, 159.

punishment. If, for instance, the offence be drunkenness or temporary violence, the offender should be confined till sobriety or quiet demeanour justify the removal of restraint, and then, by assembling the crew and pointing out the impropriety of the offender's conduct, the master may ascertain if a better disposition has been produced, and whether any reasonable apprehension of mischief can be entertained, if the offence be passed over without further notice. If corporal punishment be hastily ordered, or frequently resorted to, it may engender a spirit of dissatisfaction and insubordination, rendering the progress of the after voyage a period of mutual distrust and annoyance; but if such punishment should be deemed by the *master and his officers* absolutely necessary "to the safety of the ship and of the lives of the persons on board," great care must be taken that it be not excessive or vindictive, and that it be governed more by the probability of serious consequences resulting from the offence than by the character of the offence itself. Punishment should always be "reasonable and moderate"; and all offences should be punished less than they strictly deserve, unless the circumstances of probable danger to the ship or the persons on board render the full measure of punishment indispensable.

It should be distinctly understood, that a hasty or intemperate blow given by the master cannot be justified. There are doubtless many provoking acts and many causes of excitement which, in the heat of the moment, sometimes throw masters off their guard, and all such circumstances of provocation or extenuation are taken into due consideration by the proper

tribunals of this country, in the administration of the law and the distribution of punishment; but the law itself is too watchful over the safety of all to allow the slightest violence to be done to the person of any, except in self-defence, or for the maintenance of discipline to ensure the safety of the ship and the lives of the persons on board. And if the master be not allowed to inflict a hasty or intemperate blow, still less can a mate or other person on board be excused for any such violence. The mate or officer in charge of the ship, in the absence of the master, may exercise the power of restraining any offender, but he should reserve the question of punishment for the judgment of the master, who is to act in concert with his officers.

Chief Justice Tindal, on the trial of an action against the master of a ship for assaulting and confining a seaman who had been disobedient and mutinous, said, "By the common law a similar power of moderate chastisement is given to the captain of a ship as there is to a parent and a schoolmaster. The late Lord Tenterden often observed, that it was always desirable, and indeed the duty of the captain, to institute an inquiry, and have it entered on the log what the result was. It seems to me that it is undoubtedly both his duty and his interest. It is his duty, because, by availing himself of the advice of others, he prevents himself from acting solely on his own feelings, which may be excited; and it is his interest, because it furnishes evidence in his favour to be used on the day of trial." *

* Murray and Moutrie, 6 C. and P. 471.

Some instances of unjustifiable confinement upon charges of mutiny have occasionally occurred, and it is necessary for masters clearly to understand what acts of insubordination amount to the crime of piracy and felony under the statute 11 and 12 Wm. III., which enacts that "If any commander or master of any ship, or any seaman or mariner, shall betray his trust, and turn pirate, enemy, or rebel, and piratically and feloniously run away with his or their ship or ships, or any barge, boat, ordnance, ammunition, goods, or merchandizes, or yield them up voluntarily to any pirate, or shall bring any seducing messages from any pirate, enemy, or rebel, or consult, combine, or confederate with, or attempt or endeavour to corrupt any commander, master, officer, or mariner, to yield up or run away with any ship, goods, or merchandizes, or turn pirate, or go over to pirates, or if any person shall lay violent hands on his commander whereby to hinder him from fighting in defence of his ship and goods committed to his trust, or shall confine his master, or make or endeavour to make a revolt in the ship, shall be adjudged, deemed, and taken to be a pirate, felon, and robber. (11 and 12 Wm. III. c. 7, s. 9.)

The acts which are to be treated as felonious and piratical offences are thus clearly defined; no others fall within that class except such offences as if committed on shore would be felonious. Unless the conduct of a seaman be such as to come clearly within the foregoing section a master will not be justified in putting him in irons, and bringing him home in confinement as a felon, on a charge of *mutiny*. There are acts of a mutinous character for which the proper

punishment would be the forfeiture of wages, but they should be carefully distinguished from such as are declared by law to be piracy. A seaman may strike his master, or refuse to perform his duty, without having an intention *to make a revolt in the ship*: neither of those acts would alone amount to a felonious and piratical act of mutiny—the former act would be an assault of an aggravated nature, for which the master might restrain the seaman, and proceed against him according to law on his arrival in port; or if necessary might punish him, subject to the cautions already given as to the manner and degree of punishment;—the latter would be a breach of the seaman's agreement, for which he is to be punished by forfeiture of wages during the time of his refusal to work: but if he go further, and by his conduct or language show an intention to deprive the master of his control over the ship, or say or do any thing to induce the crew or any of them to take such control from him, then the seaman would be guilty of an endeavour to make a revolt in the ship, and the master should take instant measures to suppress it. In such a case the law arms a master with all the protection that it throws around a person placed in a position of self-defence by the acts of others. He should be firm, but temperate, and avoid the sacrifice of life and the infliction of bodily harm if possible; but, if necessary, he should *by force* restrain the offenders, and secure them, to be tried by a proper tribunal. If death should be the consequence of the necessary force used by the master, in restraining or resisting those who feloniously make, or endeavour to make, a revolt, he would be clearly exonerated;

but not so if he cause death in resisting a mere assault; and still less would he be excused, if he cause it by violence inflicted on a seaman for a mere refusal to do duty—in these cases he would “be guilty either of manslaughter or murder, according to the rules and distinctions of the criminal law of England in analogous cases.” It is not, however, to be supposed that the law does not justify resistance, to a certain extent, in the case of a common assault, for it recognizes the right of self-defence in every instance, but the amount of lawful resistance is to be measured by the necessity of the case, and the time and circumstances attending it. Masters would best support their authority in cases of simple assault by abstaining from the use of personal violence or retaliation, and by ordering the offender to be confined until a sufficient interval shall have elapsed to allay the excitement generally produced. If masters enter into personal conflict in such cases, besides the effect it must have in diminishing their authority, they expose themselves to the chance of inflicting, through heat of blood, more violence than may be necessary in self-defence, for which the law will hold them responsible. “In all acts of discipline and authority passion is a bad counsellor; care is to be taken to suppress even natural and honest feelings of resentment, which may have the effect of transferring a share of the blame belonging to the transaction to the other side of the question.” *

It has been said in one case that if a seaman, in liquor, hold up his fists to strike his captain, it is so

* *Frederick, Hearn*, 1 Hagg. A. R. 211.

near an act of mutiny that it is justifiable at once to quell it by striking the first blow; but it was at the same time stated that very few circumstances can justify a master of a ship in *personal violence*; and that, although it is necessary that the master should be supported in enforcing due subordination and discipline in his ship, yet the law will not countenance his giving way to intemperate passion, for that is not only unjustifiable, but certainly is not the most effectual mode of maintaining proper authority.*

The common Law Reports contain two decisions upon indictments preferred against seamen for making or endeavouring to make a revolt. In one case it was contended for the prisoners, who were stated to have had in view a redress of supposed grievances, and not the intention of assuming the command for the purpose of carrying off the ship, that such object did not satisfy the intent of the statute; but the Judges present were unanimously of opinion that making or endeavouring to make a revolt, with a view to procure a redress of what the prisoners thought grievances, and without any intent to run away with the ship or to commit any act of piracy, was an offence within the 11 and 12 Wm. III. c. 7, s. 9.†

In the other case two seamen (McGregor and Lambert) were charged in the first count of the indictment with *having made a revolt*, and in the second with *having endeavoured to make a revolt*. One of them had refused to perform his duty on the day previous

* Lima, *Fewson*, 3 Hagg. A. R. 346.

† *Rex v. Hastings and Meharg*, 1 M. C. C. R. 82.

to that on which the offence occurred, and used violent and threatening language, in consequence of which the captain ordered the crew to put him in irons; but instead of obeying him, they walked away forward. The other prisoner, who had also refused to go to his duty, and a man named Griggs, went towards the captain, who, with the assistance of his officers, was endeavouring to put McGregor in irons. Violent language was used by both, and threats were uttered against the captain to induce him to alter his determination; and Griggs rushed to the boat, with the evident intention of seizing a lance and releasing McGregor by force. The captain called for his gun and shot Griggs as he was in the act of getting the lance, and killed him on the spot. The crew then returned to their duty. In summing up to the jury, Lord Abinger, C. B. said—"By revolt I understand something like rebellion or resistance to lawful authority. Persons who rebel against and resist the constituted authorities, if they are subjects, are said to be in a state of revolt; and if the crew of a ship combine together to resist the captain, especially if the object be to deprive him of his authority altogether, it will, in my opinion, amount to making a revolt. I think, upon the construction of this Act of Parliament, that the resistance of one person to the authority of the captain would not be a revolt. Revolt means something more than the disobedience of one man. I think it would be straining the evidence rather too far to say that the conduct of these men *amounted to revolt*; but if Griggs and these two men united in some common design to prevent the captain from putting McGregor in irons, which on

the evidence he had sufficient justification in doing, and called upon others of the crew to assist them in resisting the captain's authority; if you think such was their intention, then, I own, I think that it was *an attempt* to excite a revolt." Upon which the Jury found McGregor guilty, and he received sentence of one year's imprisonment.*

In the case last cited, a seaman who was in the act of seizing a deadly weapon for the purpose of resisting the authority of the captain, and of compelling him to desist from putting another seaman in irons, sacrificed his life by his temerity; and as a similar spirit of opposition is occasionally manifested, and cannot be too strongly deprecated, it seems desirable to give a full report of the important case of *Lamb v. Burnett*, in which the authority of a master to punish his seamen for misconduct was argued in the Court of Exchequer, upon a motion for a new trial, and solemnly recognized by the whole Court.

The defendant Burnett was captain of the *Scaleby Castle*, and whilst the ship was at anchor in the Bay of Canton, an inquiry was held by the officers in the absence of the captain, who was at Macao, upon the conduct of a mariner of the name of Cronan for disobeying the orders of the gunner. They determined that Cronan had been guilty of the disobedience imputed to him, and sent for the captain, who in three days afterwards came to the ship. The captain then ordered Cronan to be flogged, upon which the plaintiff (*Lamb*) demanded by what authority the defendant ordered Cronan to be

* *Regina v. McGregor and Lambert*, 1 Carr. and Kir. 429.

flogged, and the plaintiff was guilty of riotous and mutinous conduct, with many others of the crew, in resisting the execution of the captain's order to flog Cronan. Other ships were within hail, and sent men to assist, and the disturbance was quelled. For this conduct Lamb was immediately flogged by the captain's directions, and was afterwards imprisoned and kept in irons. The Jury found that the conduct of the plaintiff was disorderly and mutinous, and that Cronan had been guilty of the disobedience imputed to him, and they gave their verdict for the defendant.

On the motion for a new trial the opinions of the Judges were thus expressed:—

Lord Lyndhurst.—“It is perfectly clear upon the evidence that Cronan misconducted himself, that he had taken a part in the riotous proceedings in the absence of the captain, and that he had stated to an officer that he would not obey any commands issued by him till the captain came on board. It appears, that in consequence of this conduct the captain was sent for: he came on board three days afterwards, and immediately upon his arrival on board he directed Cronan to be flogged; and, I apprehend, for the purpose of enforcing obedience, the captain has authority to order any of the crew who misconduct themselves to be moderately and properly corrected. It also appears to me, that in this case no objection can be made to the interval which elapsed between the time when the offence was committed, and the period when the punishment was inflicted by order of the captain. The next question is what was the conduct of Lamb. Lamb appears to have been at the head of

those persons who opposed the infliction of punishment upon Cronan; and every person hearing the evidence must be satisfied that the conduct of the parties upon the occasion in question was extremely objectionable and mutinous. Under such circumstances the captain was justified in authorizing and directing punishment to be inflicted upon Lamb."

Garrow, B.—"I entirely concur in the opinion that has been expressed, and *I think that the persons most interested in this decision*, and in the decision being made promptly, without any delay which might suggest the idea that there was some doubt on the subject, *are the sailors navigating the commercial vessels of this country*. Nothing can be more dangerous than that they should leave this country upon a foreign voyage under the impression that it is for them, and not for responsible officers, to decide how the discipline of the ship is to be carried on; and that where a certain portion have engaged in mutinous conduct, which renders it impossible that the duty of the ship can be carried on, the remainder may erect themselves into a court of appeal and determine against their officers, who are acting under the highest responsibility. The law is open to the meanest man on board, if the captain or any officer conduct himself with cruelty in administering the discipline of the ship; but the lives of many valuable men would be at stake and sacrificed, if any court or judge could entertain a doubt upon the point stated. I am most clearly of opinion, without the least doubt or hesitation, that the verdict is right, and that we should do incalculable mischief if we were to disturb it."

Vaughan, B.—"I am of the same opinion. If any

reasonable doubt could have been entertained on the subject, I should be the first to put the case in a train for further inquiry. In a case like the present, it is most important that the public should be in no doubt as to the rights of the parties. It was suggested that this differed very much from the ordinary case; that this ship was within two miles of the shore; that the captain had the assistance of other vessels near him; and that there was no necessity for the exercise of this power. It is new to me to hear that the authority of the captain is to expand and to contract according to the distance of his vessel from the shore. If he is on board his ship exercising the authority of captain, and the crew is mutinous, it is of the most vital importance that this power should be exercised, so far as moderate correction extends."

Bayley, B.—"If I thought any doubt could be entertained as to the propriety of the verdict, I should be the last person to wish that further inquiry should not be made; but having considered the case a great deal since the trial, I have a perfect conviction in my own mind that the verdict was right; and I think we might be creating great prejudice to the service in general if we granted this rule. It is suggested that this transaction did not take place at sea, but in a foreign port, more properly perhaps in a foreign river; but it seems to me that such fact makes no difference. You may have a mutiny as well in a foreign port, or a foreign river, as at sea; and your ship may be entirely sacrificed, or you may be deprived of the capability of navigating your ship back again, unless you have the means of promptly adopting that course

which the law has cautiously put into your power. What does the law authorize you to do in case of misconduct? To inflict moderate punishment. The punishment must be moderate, and proportioned to the offence; and though the party guilty of misconduct may bring his action if he can show that the punishment was disproportionate, yet he must adopt the course the law points out for that purpose. Here he does not adopt that course, but he says there was no cause for punishment at all. That the ship was in a state of mutiny on the 24th of January there can be no doubt at all; that Cronan was called forward for the purpose of receiving punishment for some offence which was supposed to have been committed, is also a question with reference to which there is no degree of doubt. He is told by the Captain before there is an attempt to punish him what the charge against him is, and he says he may have been guilty of the offence imputed to him, namely, of using an expression which amounts to disorderly conduct from a common sailor on board to one of the officers. But the question as to his improper and disorderly conduct does not rest there, because there is positive testimony from the different witnesses that the conduct charged upon him on the 19th really and actually took place. Why then if Cronan was guilty of that offence, was not the captain justified, for the sake of preserving discipline, in directing that he should be punished? Is a sailor to be at liberty to interfere, and say that the punishment shall not take place? There can be no doubt that the conduct of Lamb at the period in question, connected with the conduct of other persons on board, showed

that he meant to prevent the punishment of Cronan. It was suggested that Cronan's conduct had occurred four days before there was an order to punish him; but in my opinion the master had a right to insist upon punishing him notwithstanding that interval of time. It is quite right that there should be moderate punishment; it is quite right that you should forbear to put the punishment in force until the period of time at which he who ought to have the best discretion upon the subject is present,—and if the captain happen to be absent, it is most desirable that the officers should not take upon themselves, in the absence of the captain, to inflict the punishment that ought to be inflicted; it is reasonable that they should wait—they do wait, and they send for the captain, and it is in pursuance of the representation to the captain that the party is punished. Under these circumstances it seems to me that the captain was fully justified with reference to the punishment of Cronan, *and that the crew*, and Lamb among the others, *had no right to insist that there should be no flogging*. I am, therefore, of opinion that the verdict which the jury have given is right, and that there is no ground for disturbing that verdict." *

In the case of McGregor and Lambert (which is important as having occurred subsequent to the passing of the 5 and 6 Wm. IV. c. 19), the master was not only held to be justified in ordering one of his crew to be put in irons for *neglect of duty and using violent language*, but those who united in a common

* Lamb v. Burnett, 1 Crompton and Jervis, 291.

design to prevent the captain from carrying his order into effect, and called upon others of the crew to assist them in resisting the captain's authority, were held to be guilty of an attempt to make a revolt in the ship.

Although the master's authority is thus supported, it is always to be remembered that the law *cautiously* intrusts him with such power. "The offences which are most likely to call for the exercise of the master's authority to inflict personal punishment,—disorder, disobedience, and mutiny,—may not unfrequently be caused or aggravated by his own indiscretion and misconduct. He ought not to be extreme to mark what is done amiss. The law enjoins upon him a temperate demeanour and decent conduct towards seamen. He is finable, by many of the sea laws, for abusive expressions; and though hasty *words* employed by him on occasions of emergency and excitement will be considered excusable, violent language used at the time of the correction, which is challenged, may indicate an undue violence of temper, and render him liable to be admonished that passion is not to be indulged in the infliction of punishment, and that he who has to command others, should also command himself." *

Seamen have sometimes been brought home in confinement upon charges of *stealing* or *embezzlement*, of which there has been no sufficient proof. In all cases of this description, the master should ascertain whether he can produce witnesses on his arrival in port to prove

* Abbott, (Shee's edit.) 158.

the guilt of the accused seaman. If there be a bare suspicion only, or if the offence be trivial, it would be better to avoid putting him in confinement. There are some offences, however, for which the offender must be restrained—such as malicious stabbing, cutting, or wounding. An offender cannot safely be trusted at large after an offence of this description has been committed or attempted; but for stealing or embezzlement, it may be generally sufficient to restrain him only, in ports or places where he might otherwise have an opportunity of going ashore and escaping.

To prevent fraudulent connivance with pirates, a statute was passed in the reign of Charles II. by which the master of any vessel of a burthen of 200 tons or upwards, and mounted with 16 guns, is forbidden to yield his cargo to pirates of any force without fighting, on pain of being rendered incapable to take charge of any English vessel afterwards. By the same statute it is enacted, “that every mariner or inferior officer of any English ship, laden with goods and merchandizes, who shall decline or refuse to fight and defend the ship when thereunto commanded by the master or commander thereof, or shall utter any words to discourage the other mariners from defending the ship, shall lose all his wages due to him, together with such goods as he hath in his ship, and suffer imprisonment not exceeding the space of six months, and shall during such time be kept to hard labour for his or their maintenance.” (22 and 23 Car. II. c. 11, s. 7.)

The same statute, in order to encourage the resist-

ance which it enjoins, provides a mode of raising sums of money, not exceeding two pounds per centum of the freight and of the ship and goods so defended, which shall be distributed among the captain, master, officers, and seamen of the said ship, or widows and children of the slain. (s. 10.)

The laws for the punishment of persons setting fire to and otherwise maliciously damaging or destroying ships, and making it felony to prevent or impede by force any person endeavouring to save his life from any ship in distress, or wrecked, stranded, or cast on shore, should be here noticed.

By statute 1 Victoria, c. 89, s. 4, it is enacted, "that whosoever shall unlawfully and maliciously set fire to, cast away, or in anywise destroy any ship or vessel, either with intent to murder any person, or whereby the life of any person shall be endangered, shall be guilty of felony, and being convicted thereof shall suffer death."

Section 5 enacts, "that whosoever shall unlawfully exhibit any false light or signal with intent to bring any ship or vessel into danger, or shall unlawfully and maliciously do any thing tending to the immediate loss or destruction of any ship or vessel in distress, shall be guilty of felony, and being convicted thereof shall suffer death."

"Whosoever shall unlawfully and maliciously set fire to or in anywise destroy any ship or vessel, whether the same be complete or in an unfinished state, or shall unlawfully and maliciously set fire to, cast away, or in anywise destroy any ship or vessel, with intent thereby to prejudice any owner or part owner of such

ship or vessel, or of any goods on board the same, or any person that hath underwritten or shall underwrite any policy of insurance upon such ship or vessel, or on the freight thereof, or upon any goods on board the same, shall be guilty of felony, and being convicted thereof, shall be liable to be transported for life, or for any term not less than fifteen years, or to be imprisoned for any term not exceeding three years. (s. 6.)

By statute 7 and 8 Geo. IV. c. 30, s. 10, "if any person shall unlawfully and maliciously damage, otherwise than by fire, any ship or vessel, whether complete or in an unfinished state, with intent to destroy the same, or to render the same useless, every such offender shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the Court, to be transported beyond the seas for the term of seven years, or to be imprisoned for any term not exceeding two years, and if a male, to be whipped once, twice, or thrice, in addition to such imprisonment."

By statute 1 Victoria, c. 89, s. 7, "whosoever shall by force prevent or impede any person endeavouring to save his life from any ship or vessel which shall be in distress, or wrecked, stranded, or cast on shore, (whether he shall be on board or shall have quitted the same,) shall be guilty of felony, and being convicted thereof shall be liable to be transported for life, or for any term not less than fifteen years, or to be imprisoned for any term not exceeding three years."

By s. 8, "whosoever shall unlawfully and maliciously destroy any part of any ship or vessel which shall be in distress, or wrecked, stranded, or cast on

shore, or any goods, merchandize, or articles of any kind belonging to such ship or vessel, shall be guilty of felony, and shall be liable to be transported for any term not exceeding fifteen years, nor less than ten years, or to be imprisoned for any term not exceeding three years."

All offences committed on the high sea within the jurisdiction of the Admiralty of England may be tried at the Central Criminal Court, at Justice Hall in the Old Bailey, (4 and 5 Wm. IV. c. 36, s. 22.) or by Her Majesty's Justices of Assize, or others Her Majesty's Commissioners by whom any Court shall be holden under any of Her Majesty's Commissions of Oyer and Terminer or General Gaol Delivery. (7 and 8 Vict. c. 2, s. 1.) Common assaults committed on board any ship belonging to any subject of Her Majesty, in any part of the world, may be heard and summarily determined by any two Justices of the Peace in any part of Her Majesty's dominions, or the territories under the government of the East India Company, residing at or near any port or place at which the ship may arrive or touch, upon complaint of the party aggrieved, which Justices have power to inflict a fine not exceeding five pounds for every such offence, and in default of payment to commit the offender for any time not exceeding two calendar months, provided that the complaint be made and prosecuted within three months after the offence, or within three months after the arrival of the ship at her final port of destination in the United Kingdom, or within three months after the respective parties shall be

within the jurisdiction of such Justices. (7 and 8 Vict. c. 112, s. 44, and 9 Geo. IV. c. 31, s. 27.)

Any Justice of any place in the United Kingdom is authorized to take any information upon oath touching any piracy, felony, robbery, murder, conspiracy, or other offence of what nature or kind soever, committed upon the sea, or in any haven, river, creek or place within the jurisdiction of the Admiralty of England, and to cause the person charged to be apprehended and committed for trial, or bailed in cases in which bail may by law be taken, and if such Justice shall see cause to commit such person for trial, he is to be committed to the same prison to which he would have been committed to take his trial, at the next Court of Oyer and Terminer and General Gaol Delivery, if the offence had been committed on land within the jurisdiction of the committing Justice, who has power to bind by recognizance all persons who shall know or declare any thing material touching the offence to appear at such next Court of Oyer and Terminer and General Gaol Delivery, to prosecute or give evidence against the party accused. (7 Geo. IV. c. 38, and 7 and 8 Vict. c. 2, s. 3.)

Every misdemeanor created by the Merchant Seamen's Act may be prosecuted by information at the suit of Her Majesty's Attorney General, or by indictment or other legal proceeding in any court having criminal jurisdiction in Her Majesty's dominions at home or abroad, and the offence may be laid and charged in the county or place where the offender shall happen to be; and every court may issue a commission

for the examination of witnesses who may be absent or out of the jurisdiction of the court, the depositions taken under which commission are to be received in evidence. (s. 47.) For every misdemeanor the offender is liable to fine or imprisonment, or both as to the court before whom he may be tried shall seem meet.

All offences against the property or person of any subject of Her Majesty, or of any foreigner, which shall be committed in or at any port or place, either ashore or afloat, out of the dominions of Her Majesty, by the master and crew, (including apprentices,) or any or either of them, belonging to any ship subject to any of the provisions of the Act (7 and 8 Vict. c. 112.) or who within three months before the committal of the offence shall have been the master thereof, or shall have formed part of any such crew, are declared to be offences of the same nature respectively, and to be liable to the same punishments respectively, and are to be tried in the same manner as if such offences had been committed within the jurisdiction of the Admiralty of England. And upon any trial for such offences, or for any misdemeanor against the provisions of the act, the court may order the payment of the costs of the prosecution, as in prosecutions for offences committed within the jurisdiction of the Admiralty of England. (s. 58.)

Whenever any complaint shall be made to any of Her Majesty's Consuls or Vice-consuls of any such offence, or of any offence having been committed at sea, by the master or any of the crew (including apprentices) of any ship subject to any of the pro-

visions of the Act, such Consul or Vice-consul may inquire into the case, upon oath, and at his discretion cause any offender to be placed under all necessary restraint, so far as it may be in his power, so that he may be sent and conveyed in safe custody to England as soon as practicable, in any vessel of Her Majesty, or of any of her subjects, to be there proceeded against according to law. And any Consul or Vice-consul may order a passage to England for any such offender or offenders under necessary restraint, and the witnesses; and the master or other person having the charge of any ship belonging to any subject of Her Majesty, bound for England, is required to receive and afford a passage and subsistence during the voyage to any such offender or offenders and witnesses, not exceeding the rate of one offender or two witnesses for every one hundred tons of his ship's burthen; and on arrival in England the master is to take, or cause to be taken, the offender or offenders before a Justice of the peace, and in case the master or other person having the charge of any such ship, when required by the Consul or Vice-consul, shall not receive and afford such passage, or shall not take, or cause to be taken, the offender or offenders before a Justice of the peace as aforesaid, every such master will be liable to a penalty of fifty pounds. (ss. 59 and 60.)

Any Justice of the Peace residing at or near any port at which any ship shall arrive, has full power and authority to hear and determine all claims of apprentices on board thereof upon their masters under their indentures, and all complaints of ill usage exercised

by their respective masters, or of misbehaviour on the part of any such apprentices, and to proceed thereupon as in other cases between masters and apprentices : and if any master shall not send on shore in the charge of the mate, or other trustworthy person, any apprentice desirous of complaining to a Justice of the Peace so soon as the service of the ship will permit, he will be liable to forfeit the sum of ten pounds. (s. 43.)

CHAPTER III.

OF THE SUBJECTS OF CONSIDERATION AT THE END OF A VOYAGE.

THE entries in the Log-book respecting the conduct of the seamen must be kept up after the ship's arrival in the port of delivery, and until the discharge of the cargo; for if any seaman should quit his ship without a previous discharge or leave *from the master*, the fact of his absence should be duly entered in the Log-book. (7 and 8 Vict. c 112, s. 7.)

The master, on his arrival in any port of the United Kingdom, is required to send through the Post-office to "the Registrar-General of Births, Deaths, and Marriages in England," a certificate of births or deaths, if any shall have happened during the voyage, in the proper forms (Appendix Nos. 3 and 4), unless he shall have forwarded such certificate at a sooner opportunity. (6 and 7 Wm. IV. c. 86, ss. 21, 26.)

The master, commander, or other person having the care of a ship or vessel, shall, if required, sign a duplicate of the Muster-roll, which shall be delivered to the Collectors or Receivers of the Merchant Seamen's duties, at whatever port in Great Britain or Ireland any such ship or vessel shall report or dis-

charge her cargo, and a penalty of five pounds is imposed upon every master, commander, or other person as aforesaid, who shall neglect or refuse to deliver such duplicate as aforesaid. (4 and 5 Wm. IV. c. 52, s. 9.)

As to ships in the *foreign trade*, it is enacted that within twenty-four hours after the arrival *from parts beyond the seas* of any ship, of whatever tonnage or description, belonging to a subject of Her Majesty, at the final port of destination of such ship in the United Kingdom, the master shall deliver, or cause to be delivered, to the Collector or Comptroller of the Customs at and for such port, every agreement made with his seamen, or a true copy thereof, and of every endorsement thereon. And, whether he deliver the agreement or a copy, he must write a certificate thereon, to be signed by himself or the owner, and also by the mate or next officer (if any) of such ship, each of whom is required to sign such certificate in the presence of one attesting witness at the least. *If the agreement be delivered*, the certificate should certify it to be the original agreement entered into between the master and seamen of the ship therein mentioned during a voyage from ——— to ———; and *if a copy be delivered*, the certificate should state it to be a true copy of the agreement, &c., and of every endorsement thereon. If the original agreement be delivered to such Collector or Comptroller, he is to retain the same until all the seamen's wages shall be paid, and then he is to transmit it to the Registrar of Seamen. (7 and 8 Vict. c. 112, s. 3.)

• Within forty-eight hours after the arrival of any such ship, from parts beyond the seas, at her final port of destination in the United Kingdom, except in the cases hereafter mentioned,* the master or owner is required to transmit or deliver, or cause to be transmitted or delivered, to the Collector or Comptroller of the Customs at such port an account or list, signed by himself, of all the seamen and others (including apprentices) who shall have belonged to the ship at any time during her absence from the United Kingdom; which account is to contain a full, true, and correct return, under their respective heads, of the several particulars expressed in the form set forth in the schedule annexed to the act and marked (C), with Christian names and surnames of the master and all the crew at full length, and with the dates of the registry of the indentures of the apprentices, and the assignments respectively, and the port at which and the time when they were respectively registered, and also the numbers of the register tickets of every apprentice and seaman. (7 and 8 Vict. c. 112, s. 26.)

No such ship can be cleared inwards until the master shall produce a certificate from such Collector or Comptroller that he has delivered his agreement or agreements with his seamen, or an attested copy thereof, and has also rendered such accounts or lists as aforesaid. And the tidewaiters left on board are to be maintained at the expense of the master or owner until such certificate from such Collector or Comp-

* Page 97. 7 and 8 Vict. c. 112, s. 27.

troller shall be produced and shown, or until it shall be proved to the satisfaction of the Tide Surveyor or other officer that such agreement or agreements, or such copy thereof, has or have been so delivered as aforesaid, and also until such accounts or lists shall be duly delivered as aforesaid. (ss. 3, 26.)

And if any such ship shall be trading under the authority of the Act relating to the East India Company's possessions, and shall have on board, or during any part of her voyage shall have had on board, either as part of her crew or in any other character, or for any other reason, any Asiatic sailor, Lascar, or native of any of the territories, countries, islands, or places within the limits of the Charter of the said Company, the master or other person having the command of such ship is required to make out and exhibit, before such ship shall be admitted to entry, to the principal officers of the Customs a true and perfect list of every such Asiatic sailor, Lascar, or native, with a true account what shall have become of every such Asiatic sailor, Lascar, and native who have been and shall not then be on board : in default of which the master and owners will be liable to forfeit ten pounds for every such Asiatic sailor, Lascar, or native neglected to be reported. (4 Geo. IV. c. 80, s. 27.)

With regard to every ship belonging to a subject of Her Majesty, of whatever tonnage, employed in fishing on the coasts of the United Kingdom or elsewhere, other than in the South Sea, Greenland and Newfoundland fisheries, or in proceeding from one part of the United Kingdom to another, and every ship proceeding or making voyages to any of the islands of

Jersey, Guernsey, Alderney, Sark, and Man, or to any port on the Continent of Europe between the river Elbe inclusive and Brest, the master or owner is required, within twenty-one days after the 30th June and the 31st December in each year, to deliver or transmit to the Collector or Comptroller of the Customs of any port of the United Kingdom, every agreement made within the six months next preceding such 30th day of June and 31st day of December respectively, or a true copy thereof, and of every endorsement thereon, certified as aforesaid;* and also an account signed by such master or owner, of any voyage or voyages in which such ship shall have been engaged during the preceding half year, ending on the respective days above mentioned, and setting forth legibly and at full length the christian and surnames of the several persons (including the master and apprentices) who shall have belonged to the ship at any time during such periods respectively; which account is to be in the form and is to contain a true and correct return, under their respective heads, of the several particulars expressed in the schedule marked (D) to the act annexed. (ss. 3, 27.)

And no master or owner shall receive a transire or other Customs document necessary to enable him to conduct the business of his ship, after the expiration of the said twenty-one days, until he shall produce and show a receipt for such agreement or copy thereof from the Collector or Comptroller, or shall prove to the satisfaction of the officer that every such agreement

* See page 95.

or such copy thereof as aforesaid has been duly delivered, and until such master or owner shall also produce a certificate from such Collector or Comptroller that he has delivered such an account. (*id.*)

In the case of ships of all descriptions which may be unemployed for six months, or which may be employed and not require a transire or other Customs document, the master or owner is required to notify the same to such Collector or Comptroller within such twenty-one days, and in case of every default is made liable to a penalty of ten pounds. (s. 27.)

Every owner or master who shall refuse or neglect to transmit, deliver or cause to be delivered any list, account, register ticket, or other document, as required by the act, will, for every such refusal or neglect, forfeit ten pounds. (s. 29.)

Upon the discharge of a seaman from any ship, or upon payment of the wages to him, he is to receive from the master and the master is required to give to him, not only his register ticket, but also a certificate of such seaman's service and discharge, in the form set forth in schedule (E) to the act annexed, specifying the period of his service and the time and place of his discharge; which certificate is to be signed by the master, who will forfeit to the seaman five pounds if he shall not give such certificate. (s. 13.)

In all cases the seaman, *at the time of his discharge*, is entitled to be paid, on account, a sum equal to one fourth part of the balance due to him. But if the ship shall be employed *in coasting* the whole wages are to be paid *when the seaman shall be discharged*, or *within two days after the termination of the agreement*, which-

ever shall first happen, the periods of such termination being the 30th June and 31st December in each year, if no termination be expressed in the agreement. (s. 11.)

If the ship shall be employed *otherwise than coasting* then the wages are to be paid, at the latest, *within three days after the cargo shall have been delivered, or within seven days after the seaman's discharge*, whichever shall first happen. (*id.*)

And in case the master or owner shall neglect or refuse to make payment in manner aforesaid he is to forfeit and pay to the seaman the amount of two days' pay (to be recovered as wages) for each day, not exceeding ten days, during which payment shall, without sufficient cause, be delayed beyond the respective periods aforesaid. But this does not extend to ships employed in the Southern whale fishery, or on voyages for which seamen are wholly compensated by shares in the profits of the adventure. (*id.*)

If, three days after the termination of the stipulated service, or after a seaman shall have been discharged, he shall be desirous of proceeding on another voyage, and in order thereto, or for any other sufficient reason, shall require immediate payment of any amount of wages, not exceeding twenty pounds, due to him, he may apply to a Justice of the peace; and on satisfactory proof that such seaman would be prevented from employment, or incur serious loss or inconvenience by delay, such Justice is to summon the party or parties, and, if it shall appear that there is no reasonable cause for delay, to order payment forthwith. And in default of immediate compliance with such order, the party will be liable to forfeit the sum of five pounds,

to be paid to such seaman in addition to his wages. (s. 14.)

It is irregular to discharge seamen before the delivery of the cargo; for "the voyage, within the meaning of the contract, is not concluded by the mere fact of arrival. The act of mooring is an act to be done by the crew. There is no period at which the cargo is more exposed to hazard than when it is in the act of being transferred from the ship to the shore; and the maritime law accounts as a desertion the departure of the mariners from the vessel until the cargo be actually delivered."* "The seaman's duty does not terminate until the discharge of the cargo, and his payment of wages must be correlative and extend to the same period."†

Such is the law with respect to the reciprocal duties of the parties; but since the establishment of docks, in which cargoes are delivered by servants of the dock company, masters and owners of ships so delivered in such docks have generally dispensed with the services of seamen, excepting officers, after the ship has been moored in dock. But this practice is entirely permissive on the part of the master; and if any seaman, after the ship's arrival at her port of delivery, and before her cargo shall be discharged, shall quit the ship without a previous discharge or *leave from the master*, he will forfeit one month's pay out of his wages. (s. 7.)

The statute contemplates that all agreements for

* Abbott (Shee's ed.) 152.

† McDonald v. Joplin. 4 M. and W. 285.

service *in the coasting trade* shall extend over the period of all the continuous voyages performed within each half year, and the form in schedule (B) contains a proviso under which a seaman may claim his discharge during the six months, but not during any voyage in which the ship may be engaged, nor at any other port than a port in the United Kingdom.

Having stated the time within which wages are to be paid, we now come to the law respecting the earning of wages, and the loss or forfeiture of the same, or of any part thereof.

First, it will be right to state the general principles collected in the work to which such frequent reference has been made, with such allusion to the recent Act as may be required, and then to particularize the several grounds of forfeiture or abatement.

“A seaman who has faithfully performed his service on board a ship during the whole period of the voyage, is entitled to receive the whole of the stipulated reward, if no disaster has rendered his service useless or unproductive to his employer. And as a seaman is exposed to the hazard of losing the reward of his faithful service during a considerable period in certain cases, so on the other hand the law gives him his whole wages, even when he has been unable to render his service, if his inability has proceeded from any hurt received in the performance of his duty, or from natural sickness happening to him in the course of the voyage. And if a master, in violation of his contract, discharge a seaman from the ship during a voyage, the seaman will be entitled to his full wages, up to the prosperous determination of the voyage, deducting,

if the case require it, such sum as he may in the mean time have earned in another vessel.* A seaman is to be found with provisions as long as he remains on board and is willing to do his duty; if there be a want of sufficient provisions, it is a sufficient justification for his leaving the vessel, and will not deprive him of his right to his wages. In the ordinary case of an embargo, a seaman hired by the month, and remaining with the vessel, has a right to his wages during the embargo, if the ship afterwards perform her voyage and earn her freight."† It has been decided "that a seaman belonging to a privateer, who was to have a certain share of prizes in lieu of wages, and who had engaged to serve full six months on pain of forfeiting such share, did not lose his share of a prize taken while he was in the privateer, by being afterwards impressed, and then accepting the bounty, and entering on board one of His Majesty's ships before the expiration of the six months. But entering or being impressed into the King's service was considered not to give the mariner an *absolute* right to his wages up to the time, nor place him in a better condition as to such wages than he would be if he had remained on board the ship; and therefore, if the ship were afterwards captured, he lost his wages in common with those whom he left behind."‡

"The payment of wages is generally dependent upon the payment of freight; if the ship has earned its freight, the seamen who have served on board the ship have in like manner earned their wages. And,

* Abbott (Shee's ed.) 552. † Id. 553. ‡ Id. 554.

as in general, if a ship destined on a voyage out and home has delivered her outward bound cargo, but perishes in the homeward voyage, the freight for the outward voyage is due, so in the same case the seamen are entitled to receive their wages for the time employed in the outward voyage and the unloading of the cargo, unless by the terms of their contract the outward and homeward voyages are consolidated into one. And if a ship sail to several places, wages are payable to the time of the delivery of the last cargo. Upon the same principle, where money had been advanced to the owners in part of the freight outward, and the ship perished before her arrival at the port of delivery, it was held that the seamen were entitled to wages in proportion to the money advanced."*

"In the case of shipwreck, it is the duty of the seamen to exert themselves to the utmost, to save as much as possible of the vessel and cargo.† In order to stimulate the zeal and attention of this class of persons, who are often engaged in very perilous services, the policy of all maritime states has made the payment of their wages to depend generally on the successful termination of the voyage. If in the course of the voyage a *total loss* or capture of the ship take place, the seamen lose their wages. So if the ship become disabled on the voyage."‡

In the case of the "*Neptune*," *part of the ship had been saved by the exertions of the seamen*, who did not disperse themselves until they were discharged by the

* Abbott (Shee's ed.) 558. † Id. 564. ‡ Id. 571.

master; and it was held that they were entitled to their wages, as far as the fragments of the materials saved would form a fund, *though there was no freight earned* by the owners.*

It is now enacted that *in all cases* of wreck or loss of the ship, *every surviving seaman* shall be entitled to his wages up to the period of the wreck or loss of the ship, whether such ship shall or shall not have previously earned freight; *provided the seaman shall produce a certificate* from the master or chief surviving officer of the ship, to the effect *that he had exerted himself to the utmost* to save the ship, cargo, and stores. (s. 17.)

A seaman cannot claim his wages on the ground of the ship and cargo having been insured. In the case of a ship sailing on a trading voyage to Africa, and back, with goods for barter, which were all disposed of for ivory, palm oil, and other articles and stores, with which the ship was returning, when she accidentally took fire, and, with her cargo, was totally destroyed, the seaman's claim for wages was urged on the ground of the ship and cargo having been insured by the owner; but Sir John Nicholl said, "a mariner has no lien on the cargo, as cargo; his lien is upon the ship, and on the freight as appurtenant to the ship; and so far as the cargo is subject to freight he may attach it as a security for the freight that may be due. Here, however, the ship and cargo were all destroyed. The owner had effected insurances on the homeward cargo, but that will not give the seamen a legal right

* *Neptune, Clark*, 1 Hagg. A. R. 227.

to wages; it may induce the owner to act with liberality, but it cannot induce me to violate a principle and rule of law, whatever may be the hardship on the seaman. The policy of the law requires that a seaman should not insure his wages: he must take the risk of the ship and stand by her at every hazard: he has a lien on the ship to the last plank, and on the freight which is appurtenant to the ship. An insurance of the ship does not benefit the seaman; for if a seaman could look to the insurance of the ship as a security for his wages, it would be a substitution for his own private insurance, and would defeat the policy of the law. A seaman generally knows whether the ship be insured or not, and if such an insurance could enure to his advantage, it might make him indifferent, and moderate—if not extinguish—all exertion on his part. Whether if any cargo were saved it could be held to represent the freight, I give no opinion: it might raise a very different question from the present: here the goods taken in barter were destroyed and lost, so that no freight could accrue. I am of opinion that the seaman cannot recover his wages in this instance. The insurances effected on the cargo cannot be taken as the freight itself earned and made, which they must be if they could be saddled with wages: the cargo would then be made to represent freight; the insurance freight; and thus the seaman become entitled: but I know of no case where it has been held that a seaman could proceed for wages against assurers. If any portion of the ship be saved, the mariner to that extent has a lien on *the thing* for wages. So in a divided voyage, where there has been a

delivery of cargo at different ports, and freight earned at those different ports, wages would be due *pro ratâ*, though the ship should be lost before she came to her final port of discharge." *

"Wages are not lost by the hypothecation of the ship, nor even by the sale of it, unless the sale be made under the authority of a competent Court; and they are preferred to the claim of the holder of an hypothecation bond.†

"In the case of capture and re-capture, if the ship perform her voyage and earn her freight, a mariner *who has not been separated from her* is entitled to his wages upon the footing of the original contract, subject perhaps to a proportionate salvage.‡

"In a case before Lord Kenyon, the master of a vessel which had been seized and restored, claimed his wages for the period of detention, although during that time *he had been separated from her*, she having afterwards earned her freight. The wages for the voyage, exclusive of that period, were paid without dispute; and the defendant is reported to have acquiesced under a verdict given against him for the further sum, by reason of a strong opinion expressed by his lordship at the trial in favour of the claim."

"The ground of decision in this case was fully discussed on the occasion of the seizure and detention of several British ships in Russia, by the Emperor Paul, in the year 1800." The crews were taken from their

* Lady Durham, *Stewart*, 3 Hagg. A. R. 196.

† Abbott (Shee's ed.), 571. As to cases of sale, see 7 and 8 Vict. c. 112, s. 27. Page 55.

‡ Abbott, (Shee's ed.) 572.

ships, and those who were British subjects were treated as prisoners of war. Upon the death of Paul, the ships were restored, and the crews having re-embarked without entering into any new articles, they brought cargoes and earned freight. Upon the whole, the Court of King's Bench, before whom the cause was brought by writ of error, thought, "in point of law, that the contract of service was to be considered as having continued and been in force from the time of executing the articles up to and at the period of the ship's arrival at her port of discharge, and the final termination of her voyage there, and that the plaintiff was to be considered as entitled to his wages during the same time." *

Though by the maritime law the payment of wages is generally dependent on the payment of freight, there are some cases of exception. In a case where the vessel had been condemned at Sierra Leone for a breach of the Slave Abolition Acts, the owners were not exonerated from paying the mate's wages, although freight had not been earned, and although the alleged act of slave-trading was not in any manner imputable to them.†

In another case, the following passage is quoted from the work of Mr. Jacobsen on Sea-Laws:—"It is a general rule, that freight is the mother of wages, but to this there are several exceptions;" some of them appear to be cases "where the voyage is lost by the fault of the owners, as, if the ship be seized for

* Abbott, (Shée's ed.) 573.

† Malta, *Young*, 2 Hagg. A. R. 158.

their debt, or on account of having contraband goods :” and Lord Stowell instanced “ the case of a ship going out in pursuit of a freight and returning disappointed without a cargo, in which case,” continued his lordship, “ it can never be said that the seamen are not entitled to their wages, both on the outward and on the return voyage, though no freight whatever was earned.”*

So in the case of the *Lady Durham*,† Sir John Nicholl said:—“ A mariner may be entitled to wages even if no freight be earned, as where a vessel sent out upon a seeking voyage in search of freight obtains none; but why? Because if she arrives home in safety the man by his contract has a lien on the vessel; he may proceed *in rem.*, and therefore, though freight be the mother of wages, and where freight is made wages are due, yet it does not follow in all cases that if there be no freight there can be no wages.”

The particular grounds of forfeiture of wages, or abatements therefrom, are now to be considered.

The first forfeiture imposed by the Merchant Seamen’s Act upon a seaman is for wilful absence without leave from the ship, or otherwise from his duty, for which (in all cases not of desertion, or not treated as such by the master) he is to forfeit out of his wages the amount of *two days’ pay*, and *for every twenty-four hours of such absence* the amount of *six days’ pay*, or, at the option of the master, the amount of such expenses as shall have been necessarily incurred in hiring

* *Neptune, Clark*, 1 Hagg. A. R. 227.

† *Lady Durham, Stuart*, 3 Hagg. A. R. 196.

a substitute; provided that the fact of the seaman's absence be duly entered in the ship's log book. (s. 7.)

It would seem that if the period of the seaman's absence *should be less* than twenty-four hours, the forfeiture to which he would be liable would be the amount of *two days' pay*, but if the period should extend to twenty-four hours, the forfeiture would be increased to *six days' pay*, because he is to forfeit that amount for *every twenty-four hours* of his absence: in such case the smaller fine would merge in the greater.

2. A like forfeiture in respect of every offence, and of every twenty-four hours continuance thereof, is imposed upon any seaman who shall, without sufficient cause, neglect or refuse to perform such his duty as shall be reasonably required of him by the master or other person in command of the ship. If a seaman get drunk, and thereby render himself incapable of performing his duty, he will neglect it *without sufficient cause*, and be liable to the forfeiture. Drunkenness will not serve to extenuate crime, and cannot be allowed to exonerate a seaman from the penalty to which he is liable for neglect of duty. But the fact of the seaman's neglect or refusal must be duly entered in the ship's log book, otherwise no forfeiture will be incurred by the seaman. (*id.*)

3. In case any seaman after the ship's arrival at her port of delivery, and before her cargo shall be discharged, shall quit the ship without a previous discharge or leave from the master, he will forfeit one month's pay out of his wages. And as this forfeiture is for *absence*, the fact of quitting the ship should also

be duly entered in the ship's log-book ; although the omission of the words " or quitting the ship " used in the 7th section of the 5 and 6 Wm. IV. c. 19, may lead to an inference that this offence is not required to be stated in the log-book ; but the safest conclusion is, that those words were omitted because " absence " and " quitting " being synonymous terms the latter was deemed unnecessary.

The act of quitting the ship after her arrival in a port of delivery was formerly treated as desertion, and in the case of *McDonald v. Jopling** it was contended, that on the construction of section 9 of the 5 and 6 Wm. IV. c. 19, the seaman had forfeited all his wages ; but it was decided that quitting the ship after arrival at her place of destination should now be attended with the loss of one month's wages only : and there is nothing in the new Merchant Seamen's Act contrary to that decision.

In the case of a carpenter who quitted his ship after she had been secured in the London Docks, it was held that his illness furnished a reasonable and legal excuse.†

In all cases where the seaman shall have contracted for wages by the voyage or by the run, or by the share, the amount of forfeitures to be incurred by them is to be ascertained in manner following ; (that is to say), if the whole time spent in the voyage agreed upon shall exceed one calendar month, the forfeiture of one month's pay shall be accounted and taken to be a forfeiture of a sum of money bearing the same propor-

* M. and W. 385. † Test, *Brown*, 3 Hagg. A. R. 307.

tion to the whole wages or share as a calendar month shall bear to the whole time spent in the voyage; and in like manner, a forfeiture of six day's pay or less shall be accounted and taken to be a forfeiture of a sum bearing the same proportion to the whole wages or share as the six days, or other period, shall bear to the whole time spent in the voyage; and if the whole time spent in the voyage shall not exceed the period for which the pay is to be forfeited, the forfeiture shall be accounted and taken to be a forfeiture of the whole wages or share; and the master or owner is authorized to deduct the amount of all forfeitures out of the wages or share of any seaman incurring the same. (s. 8.)

4. Any seaman or other person who shall *desert* the ship to which he shall belong, will forfeit to the owner thereof all his clothes and effects which he may leave on board, and also all wages and emoluments to which he might otherwise be entitled; *and in case of any seaman deserting abroad*, he will likewise forfeit (as before stated) all wages and emoluments which shall be or become due, or be agreed to be paid to him by the owner or master of any other ship, in the service whereof such seaman may have engaged for the voyage back to the United Kingdom. But it must be remembered that a more formal entry in the log-book is required to be made of desertion; which is not only to be entered at the time, but also *to be certified* by the signatures of the master and the mate, or the master and one other credible witness. And all wages and portions of wages and emoluments which shall in any case whatever become forfeited for desertion, are to be applied, in the first instance, in or

towards the reimbursement of the expenses occasioned by such desertion to the owner or master of the ship from which the seaman shall have deserted, and the remainder shall be paid to the Seamen's Hospital Society. (s. 9.)

5. A fifth cause of forfeiture created by the Merchant Seamen's Act is the offence of tendering or delivering to a master a cancelled register ticket, or any other ticket not legally issued to the seaman. (s. 24.)

6. And a sixth is the offence of a seaman falsely representing himself to be a foreigner. For this and the last mentioned offence the seaman will forfeit to the owner all wages which shall become due to him during the service for which he shall have agreed. (*id.*)

7. A seventh ground of forfeiture is "Embezzlement, or wilful or negligent loss or destruction of any part of the ship's cargo or stores;" which, by a stipulation in the agreement, is to be made good to the owner out of the wages (so far as they will extend) of the *seamen guilty of the same*. But it cannot be enforced against any seaman unless it be proved that *he individually* has been guilty of embezzlement, or that *he* wilfully or negligently occasioned the loss or destruction charged against him. This it may be sometimes difficult to prove; but, nevertheless, the law requires it. Before the passing of the 5 and 6 Wm. IV. c. 19, it was held that the proviso contained in a form of ship's articles then in use, to subject seamen to forfeiture for embezzlement, was to be construed individually as affecting only the particular persons guilty of the embezzlement, and not the whole crew: no innocent person being liable to contribute a portion of

his wages to make good the loss occasioned by the misconduct of others.* The forms now required to be used expressly confine the forfeiture to the *guilty* seaman; and the Legislature has prevented the introduction of any stipulation to extend the forfeiture to seamen *not guilty*, by declaring that no agreement contrary to or inconsistent with the act shall be valid or binding on any seaman.

Such a stipulation of general liability has been attempted to be enforced for the prevention of loss to the owner arising from "*smuggling or illicit transactions*" on board a ship; but the Court of Admiralty refused to give effect to it against any seaman not proved to have been a participator in such acts. The learned Judge said, in deciding the case referred to, "I am clearly of opinion that I could not pronounce for a forfeiture of wages on such clauses alone, unsupported by any proof of the fact against the individuals." But it was also said that there is no objection to an allegation of the fact of smuggling as a cause of forfeiture on the general principles of maritime law.†

8. Mariners who neglect or refuse to assist their master in defending his ship against the attack of pirates will forfeit all their wages, together with such goods as they have in the ship. (22 and 23 Car. II. c. 11, s. 7.)

9. "By the terms of the agreement the seaman undertakes to serve on board the ship during the voyage described in it, and to conduct himself in an orderly,

* Abbott (Shee's ed.), 585.

† Prince Frederick, *Hart*, 2 Hagg. A. R. 394.

faithful, and honest manner, and to be at all times diligent in his duty and station, and obedient to the lawful commands of the master; an engagement which seems to comprise all the general duties of a mariner to his employers. The breach of these duties and of this engagement consists in desertion, quarrelsomeness, turbulence, mutiny, disobedience, neglect of duty, drunkenness; offences which, according to the frequency of their occurrence, the length of their continuance, and the circumstances of each particular case, besides the penalties and forfeitures enacted by the statute, may at common law justify the personal restraint and correction of the mariner, or subject him to dismissal and forfeiture of wages. It may happen that the regulations prescribed by the statute to protect the mariner against an undue infliction of forfeitures, such as the entry in the log book of the circumstances attending the alleged offence, have not been complied with by the master; and in such a case, although the statutory forfeitures may not be incurred, yet proof of the mariner's misconduct, to the satisfaction of the Court of Admiralty, may furnish a defence to an action brought by him for his wages against the master or owner."* In the same book of authority from whence this passage has been taken, it is elsewhere stated, "That neglect of duty, disobedience of orders, habitual drunkenness, or any cause which will justify a master in discharging a seaman during the voyage, will also deprive the seaman of his wages."†

This has been in some degree qualified by the pre-

* Abbott, (Shee's ed.) 150.

† Id. 584.

sent learned Judge of the Court of Admiralty (Dr. Lushington), who said in the case of the "*Blake*,"* "The rule which I would take to guide me is this, that the wages may be forfeited not in cases of discharge for mere misconduct alone, but where the misconduct has been such as to render the discharge of the seaman imperatively necessary for the safety of the ship and the due preservation of discipline."

In the case of the "*Frederick*," Lord Stowell said that the Court might, without impropriety, apply the term of mutiny to one Brown, a seaman, who had abused his captain in gross terms, and words of defiance and challenge; that the two seamen who sued for their wages had behaved very ill, and that their giving countenance to the mutineer, Brown; their refusing to put out their lights and go below to bed, when so ordered by the captain; and their adhering to Brown in his determination to leave the ship (if this is to be considered as solely their own act), formed altogether a case of gross misconduct, inducing forfeiture of their wages.†

In the case of the "*Agincourt*," the act of a mariner, of breaking out of confinement and throwing the instruments overboard, is called "a direct and gross act of mutiny."‡ And in that of the "*Susan*," the Court "considered the conduct of a mariner—who had taken part with another that had been put in irons, and who demanded to be put also in irons (which was

* *Blake, Hadden*, 1 W. Rob. A. R. 73.

† *Frederick, Hearn*, 1 Hagg. A. R. 211.

‡ *Agincourt, Mahon*, 1 Hagg. A. R. 271.

accordingly done for insolent expressions and acts of a mutinous tendency), and who had remained in irons for twelve days till the ship arrived at St. Helena, and did not then or at any time before retract or apologize for his misbehaviour, but was there left in custody, and came finally to England in another vessel—such as amounted to a forfeiture of the wages earned in the former part of the voyage from Calcutta.”*

In the case of the “New Phoenix,” it was argued for the mariner that “a casual act of intoxication while in port is not sufficient to deprive a mariner of his wages, though habitual drunkenness will.” On the part of the captain it was urged, that “drunkenness enures to a total forfeiture of wages;” and Lord Stowell in giving judgment said, “The Court is not in the habit of paying much attention to minute descriptions of this infirmity, and I do think that the drunkenness is very nicely graduated in the present case. The general description given by the witnesses is that the man was hardly ever incapable of work; he is not therefore stained with being habitually a drunkard.”†

In the case of the “Lady Campbell,” payment of wages was resisted on the ground of intoxication, and it was argued that the mariner, being steward of the ship, was not entitled to the indulgence shown to the infirmities of a common man, which could not without injury to the service be extended to a man who is paid high wages and placed in a very responsible situation;

* *Susan, Hamilton*, Note, 2 Hagg. A. R. 229.

† *New Phoenix, Lewthwaite*, 1 Hagg. A. R. 198.

but Lord Stowell said, " Nothing is proved that can fairly fix upon this person the imputation of habitual drunkenness ; and when it is pressed that the steward has more responsibility in his station than a common sailor in the ship, it is not to be forgotten that in times of extreme danger and fatigue, he is expected to take some share in the ordinary functions of a mariner, and that if stronger obligations of duty arise from his situation of trust, he is more exposed to the dangers of undue indulgence from his ready access to the means of gratification." Payment of his wages was also resisted on the ground of a deficiency of table linen entrusted to his care ; but there was no proof in what state the things were at the time the steward was appointed ; it was not satisfactorily shown that a list of them had been delivered ; and by whom it was examined and certified (if such delivery took place) did not appear. Lord Stowell said, with reference to this point, " I think the fatal deficiency of the charge upon this individual for the loss, whatever it may be, arises from the slovenly and negligent manner in which the transfer was made to him without any comparison of the things delivered with those enumerated in the list, if any such list then existed."*

In the case of the "Gondolier," while the master was on shore, having left open his own locker of wine, the mate invited three or four persons into the master's cabin, and they there between them drank three bottles of wine—the mate got rather fresh but he went to work, and when the master came on board he and

* Lady Campbell, *Beetham*, 2 Hagg. A. R. 5.

the other men were hard at work in the hold. Sir John Nicholl said—"such an irregularity is too trivial to incur a forfeiture of wages.*

In the case of the "Lima," payment of the mate's wages was resisted on the ground of misconduct and disobedience of orders. The mate and a person who was on board the ship as supercargo drew together. The latter had violent quarrels with the master, and without the master's knowledge got a paper signed by the crew. The paper was headed, "To the crew of the brig Lima," &c., and, after reciting that the master had threatened to accuse the supercargo of mutiny, the following questions were therein put to the crew:—

"1st. Did you ever see me guilty of mutinous conduct, or any thing bordering on it?

"2d. Did you ever see me attempt to take the authority out of the master's hands, or interfere with him in any way in the business of the ship?

"3d. Did you ever see me conduct myself otherwise than as becoming a gentleman? I put these questions now, because, as the master threatens to turn some of you out of the vessel and others may leave, I might by delay be deprived of your testimony. I am your obedient servant, C. B. Y." To which paper, the mate, second mate, carpenter, cook, and five seamen severally put their names, with the word "no" opposite to each.

Sir John Nicholl said—"Such is the paper which, unknown to the master, is signed by the chief mate.

* Gondolier, *Rhodes*, 3 Hagg. A. R. 190.

What can more tend to mutiny? He is the active agent to get it signed, and it is signed by all the crew but one of the cabin boys. Can such conduct be justified? Is it not alone sufficient to forfeit the wages of the mate? But there are other facts against him. It is proved that he declared he would give the master 'a wide berth,'—viz., that he would leave the ship; that he required repeated calling before he would turn out on his watch; that he was negligent and inattentive while in command; and that he allowed the hawse to get seven turns. If, while the crew were engaged in stowing the cargo, the hawse had got one or two turns, that might have been passed over; but here it gets seven; and he also allowed the chronometer to run down. The ship was proceeding from Istappa to Libertad, a very small place, and they were unable to ascertain its position. The jolly boat with four men was sent to enquire the situation, but with positive orders not to attempt landing. The boat returned with some information, and was sent again with similar orders, and a grapnel and lines were put into the boat (as well as a speaking trumpet) so as to enable her to approach the shore within the exact distance where it could be done with safety; and on this occasion the management of the boat was entrusted to the chief mate. According to the account of one of the men in the boat, they at first dropped the grapnel at about 60 fathoms from the shore, and eased the boat in with an eighteen fathom line, and were thus quite safe, but unable to make themselves heard by the people on shore. They then hauled back to the grapnel, took it up and dropped it again, but nearer to the

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shore, and again eased the boat in, but so near that she was struck by a surf and knocked to pieces." Two of the men were drowned; Stephenson, the mate, and one other saved themselves by swimming on shore. The mate being thus on board the boat in full command of her, enjoined by the master not to incur any danger, and furnished with proper means to guard against accident, is he or is he not the person responsible for this melancholy disaster; the loss sustained on the occasion being the more calamitous in this remote part of the world?

"What course then does the master pursue? Is it that of passion and vindictiveness; or does he act with proper deliberation and caution, as making a necessary example in the regular discharge of his duty? On Stephenson returning on board he is reported ill; but the master apprised him that he could no longer allow him to act as mate. In about a week he is able to do duty; but sufficient time having elapsed to allow the master fully to consider the case, he gives him a notice in writing disrating him, desiring him to go before the mast and to remove out of the cabin.

"Here, then, we find that the master did not act hastily nor in a passion, but after a week's consideration and by notice in writing he disrated the mate; and the Court must therefore decide whether his so doing was justifiable or unjustifiable. After Stephenson's neglectful conduct; his disrespectful language—above all, after the loss of the boat and the lives of the two seamen—it seems hardly possible to doubt that the master was justified in disrating him and sending him before the mast. Instead of submitting to this act of

discipline and duty on the part of the master—an example necessary for the government of the ship; he uses all the means in his power to disobey and resist authority, and to induce others to do so. He suffers the mate of the *Cecilia* in his presence to call Lamb, who had been appointed to succeed him, ‘a shabby fellow’ for undertaking the duty of chief mate; and he endeavours to dissuade him from discharging that duty. It is clear that, from the time he refused to do any work as a seaman, Stephenson did every thing in his power to excite dissatisfaction and disobedience amongst the crew, and to induce them to misconduct themselves. He was in the habit of talking of the master’s proceedings as ‘rascalities.’ At Rio Janeiro the same sort of language, having a tendency to create dissatisfaction, if not mutiny, is repeated, and the master is called a ‘scoundrel’ and a ‘blackguard.’ “What might have been the consequence if Stephenson had pursued a different line of conduct, if he had shown some contrition for what had taken place, if what had occurred had rendered him more attentive to the careful performance of his duties as a mariner, it is impossible to say. It is not by any means certain that the master might not have forgiven and even restored him to his rank as soon as he had found, from his continual good conduct, that he had become trustworthy; at all events, the Court is uniformly disposed to go as far as the law will allow in administering justice with forbearance towards the mariner; but here Stephenson’s conduct tended to the creation of mutinous misconduct throughout the return voyage. Upon the whole, then, the duty of the Court appears obvious.

If the chief mate of a vessel can be allowed to pursue such a course of conduct, totally subversive of the discipline and authority necessary to be maintained at sea, and tending to destroy all subordination, the interests of the merchants and ship owners of the country will be greatly endangered. I am therefore of opinion that Stephenson has failed to show that he diligently and faithfully performed his duty, and that the master is entitled to be dismissed, but without costs, as there appear to have been fair grounds for bringing the case before the Court.”*

This sentence, having been appealed from by Stephenson, was affirmed.

In the case of the “Blake,” already noticed, the owners alleged that there was a mutinous combination on the part of the crew; and Dr. Lushington observed “that as, under the existing state of the law, the penalty cannot be mitigated, and the whole wages must be forfeited or none at all, the facts which call for such a penalty must be of a very strong description and should be clearly established by the evidence in the cause.”

The facts were that on the 3rd of November the crew were intoxicated, having obtained six bottles of liquor from another ship, and they had continued during the preceding night singing and drinking; although it might not have been known to the master that the men were so occupied, the fact was at least notorious to some of the mates. Whilst the men were in this state of inebriety orders were given to

* *Lima, Fawson*, 3 Hagg. A.R. 346.

raise the anchor, and insolence, insubordination, and disobedience of the orders of the master and mates immediately followed.

After going through all the material facts of the case, and observing that the seaman who claimed his wages was not taken on board one of Her Majesty's ships lying at St. Helena, where the misconduct happened, although two others were, and remained as volunteers, the master having given to the commander a statement of their rate of pay and the stores they were possessed of, Dr. Lushington said—"He is retained on board the *Blake*, and the vessel proceeds on her homeward course, and within twenty-four hours afterwards the mariner returns to his duty, and conducts himself with propriety during the remainder of the voyage.

"Under this state of circumstances I have to determine whether this is a case in which the entire wages of this mariner, earned in the Indian seas during nearly two years of a seaman's life, are absolutely forfeited? It is no small punishment if the law requires me to pronounce such a sentence, and I think that nothing short of absolute necessity should drive the Court to so severe a measure. I do not mean, by any of the observations I have made, to extenuate or excuse the misconduct of which the mariner has been guilty. His conduct has been most culpable, and I should rejoice much if the law gave me the power of mulcting him of a part of his wages as a punishment of his misbehaviour; but I have no such power, the law, as I have already stated, binds me to pronounce against the whole claim or for the whole claim.

“That great insubordination prevailed on board the vessel is clearly proved. At the same time, it is to be observed, that it was only upon one occasion; when the crew were in a state of inebriety, and when that inebriety had been altogether unchecked by the master and officers on board. The consequence was a gross disobedience of the master’s authority; but there was no mutiny, and it is absurd to suppose that a concerted mutiny would have been planned in the presence of a Queen’s ship, stationed within a few yards of the vessel. It is also to be observed, that the occurrence took place in port, where the ship was exposed to no hazard; and I draw a strong line of distinction between disobedience of orders in port, and any insubordination whatever when the vessel is on the high seas, where it might expose to destruction the ship, cargo, and the lives of all on board.* Lastly, it is to be observed, that the insubordination in question originated from causes which occurred before Captain Hadden assumed the command of the vessel; and in which the then master set the worst possible example, and destroyed the discipline of the ship.†

* This distinction would seem to be confined to cases where the question is only as to the forfeiture of wages. The case of *Lamb v. Burnett* precludes such a distinction from being taken in a case where the authority of a master to enforce obedience on the part of the crew is the point in question. *Lamb v. Burnett*, page 79.

† At the Cape of Good Hope the master of the vessel on the outward voyage, and also from China to the Cape, and the chief mate, were found guilty of having occasioned the death of a seaman on board the vessel, and the master was sentenced

“Under these circumstances I do not think that I ought to pronounce for the forfeiture of the wages, as prayed for by the owners. I must, therefore, adopt the other alternative, and pronounce for the mariner’s claim.” *

The next prominent case of the class under consideration, is one decided in the Court of Queen’s Bench in 1842. The plaintiff, a seaman, had signed an agreement under stat. 5 and 6 Wm. IV. c. 19, to serve as carpenter’s mate of a vessel during a *South Sea* voyage for a stated proportion of the net proceeds of the voyage.

The vessel sailed from London in March 1838, and in the beginning of 1839 was off the coast of Java having 1050 barrels of oil on board, when Hill the captain died. Martin Smith, the chief mate, then took the command. Smith was not a natural born subject of the Queen, nor a person naturalized or made a denizen, or otherwise qualified to be master within the terms of stat. 3 and 4 Wm. IV. c. 54, s. 16. † He proposed to the crew to sign new articles of agreement with him. The majority consented; but the plaintiff and five others said that the former articles were at an end, and refused to sign others unless the ship were carried to an *English* port; or to work the ship unless for the purpose of taking her to such port. On their persisting in this refusal, *Smith* put them on shore at a port in *Java*.

to fourteen years transportation, and the mate to three years imprisonment.

* The *Blake*, *Hadden*, W. Rob. A. R. 1, 73.

† Page 4.

The plaintiff afterwards obtained a passage to England, and applied to the defendant for his wages, which were refused. The declaration stated that the plaintiff was willing to perform his duty, but that he had been wrongfully discharged. To which it was pleaded in plea 4, that the plaintiff had subscribed an agreement in the form given by schedule (A) of stat. 5 and 6 Wm. IV. c. 19, with additional clauses, stipulating, among other things, that none of the crew should excite, or cause to be excited, commotion or strife, or do any thing to occasion mutiny, disobedience of orders, insubordination, or other bad or improper conduct on board the said ship. The plea then set out, that the plaintiff wrongfully and improperly neglected to perform his duty, and excited and caused to be excited great commotion and strife in the ship, and mutinously refused to proceed on the voyage, and endeavoured to occasion mutiny, disobedience of orders and insubordination, and was guilty of other bad, violent, and mutinous, and improper conduct, wherefore the defendant discharged him. The Lord Chief Justice Tindal, in summing up, said that, by the maritime law, the command on *Hill's* death devolved on *Smith*; that the crew had nothing to do with the fact of his being a foreigner; and that, if the plaintiff was acting on a declared design to refuse serving unless the ship were carried to an *English* port, the fourth plea was made out: and the verdict was for the defendant.

Upon a motion for a new trial, it was held that the plaintiff by his replication having admitted that *Smith* was master, could not offer evidence of his disquali-

fication; and that the refusal to navigate the ship unless to an *English* port was mutiny against the master *de facto*, and justified the discharge of the plaintiff.*

A seaman under articles providing for a forfeiture of his wages in case of breach of any of his engagements, (among which is that of serving faithfully during the voyage,) can recover nothing if he be left ashore in the course of it owing to his *own fault*, in being absent at the time of the ship's sailing from any port or place at which she may have touched in the course of her voyage, though he had no intention of deserting. In the case referred to, Lord Tenterden said—"There is no desertion, but I do not think this is the real question in this cause. By the terms of the ship's articles the plaintiff is to receive a share of the produce on performing the voyage, and serving faithfully during its continuance. He did not perform the voyage; to entitle him then to recover, it *lies on him to show himself prevented by the fault of the master*."†

If a seaman's claim for wages be resisted on the ground that he would not do his work, it would be a good answer to show that the refusal to work was caused by the misconduct of the master.‡

Where the second mate of a vessel was ordered, with three other seamen, to take the ship's boat and convey the master on board, who had gone on shore at

* *Renno v. Bennett*, 3 Ad. & Ell. new series, 768.

† *Sherman v. Bennett*, M. and M. 489.

‡ *Train v. Bennett*, 3 C. and P. 3 M. and M. 82.

the Mauritius, and on their getting on shore refused to return with him, but remained there all night, and he was obliged to get back to his ship in another boat and redeem his own on the following morning, when the mate was taken before a magistrate and committed to prison; it was held that this was such an act of disobedience as to warrant the master to detain the mate's property, on board the vessel, by way of forfeiture.*

10. The last stipulation in the agreement between the master and seamen subjects any one entering himself as qualified for a duty to which he shall prove to be not competent, to a reduction of the rate of wages agreed for, in proportion to his incompetency. The Act of Parliament has not made it imperatively necessary to enter the facts and circumstances tending to show the seaman's incompetency in the Log-book; but, nevertheless, it will be more satisfactory to do so, as it will materially assist the master in proving such incompetency, if the facts be correctly stated in the Log-book. They must be strictly proved in order to justify an abatement of the wages agreed to be given, for the law will not sanction an abatement therefrom upon insufficient grounds, nor allow a master "at his option to displace any one improperly from the situation for which he was hired."†

11. If a seaman shall have unlawfully neglected or refused to join his ship, or if he refuse to proceed to sea in such ship, or absent himself therefrom without

* *Weatherpen v. Laidler*, 8 Moore, 37.

† *New Phoenix, Lewthwaite*, 1 Hagg. A. R. 198.

leave, or shall desert, and if the master shall have incurred any costs in his apprehension, which a Justice of the Peace shall award to be paid and abated from his wages, in the event of his being sent on board his ship instead of being committed, such costs may be abated, provided they do not exceed in any case the sum of forty shillings. (6 and 7 Vict. c. 112, s. 6.)

12. The cases in which a seaman may be subject to any charge for surgical or medical advice would seem to be those in which the expense is not by the Act cast upon the owner of the ship. All the crew who require medicine while on board, are to receive it at the expense of the owner, but if any seaman *should require to be sent on shore* for medical advice and attendance, the question who is to pay the extra expense thereby occasioned must be determined by the terms of the Act, which are these—"In case the master or any seaman shall receive any hurt or injury in the service of the ship, the expense of providing the necessary surgical and medical advice, with attendance and medicines, and for his subsistence until he shall have been cured, or shall have been brought back to some port of the United Kingdom, shall, together with the costs of his conveyance to the United Kingdom, be defrayed by the owner of the ship, without any deduction whatever on that account from the wages of such master or seaman." (s. 18.) This enactment does not impose such expense upon the owner in any other case than that of a seaman receiving hurt or injury in the service of the ship, and in ordinary cases of sickness, when a seaman may be

left on shore at any of Her Majesty's Colonies or Plantations, or at any other place abroad, under a certificate of his not being in a condition to proceed on the voyage, the master is to pay the seaman's wages, either in money, or by a bill drawn upon the owner; (s. 49.) from whence it may be inferred, that upon such payment being made the liability of the owner would be determined, except in a case of injury received in the service of the ship. Therefore, in all other cases it would appear that the extra expense of surgical and medical advice, beyond the advice of the medical officer of the ship (if any such officer should form part of the crew) and the supply of medicines from the ship's medicine chest, is to fall upon the seaman. And this construction is supported by the common law rule, that a master is not bound to provide a domestic or other servant with medical attendance and medicines during sickness. The statute has made it imperative upon a ship owner to keep a proper supply of medicines on board for the use and benefit of all the persons in the ship, but has not gone further, except in the case of hurt or injury received in the service of the ship.

13. The Act "for the relief of sick, maimed, and disabled seamen, and the widows and children of such as shall be killed, slain, or drowned in the Merchant Service," subjects every master of any merchant vessel belonging or to belong to any subject of Her Majesty, and every owner being a *British subject* navigating or working his own vessel, whether the said vessel shall be employed on the high sea, or coasts of Great Britain or Ireland, or in any port, bay, or creek of the same,

to a payment of two shillings per month and proportionably for a lesser time: and every seaman or other person whatsoever, who shall serve or be employed in any such vessel, and every pilot employed on board any such vessel, to a payment of one shilling per month and proportionably for a lesser time, during the time he shall belong to such vessel; which the master or owner is required to deduct and detain out of the wages, shares, or other profits payable or accruing to such seaman or other person employed on board, and to pay, together with the amount due from himself, to such officer as shall be appointed to receive the same under the said Act, at whatever port in the United Kingdom his ship or vessel shall report or discharge her cargo, and before she shall be cleared inwards by the officer of customs. But it is provided that the Act shall not extend to any person or persons employed in any boat upon any of the coasts of Great Britain or Ireland, or the islands of Guernsey, Jersey, Alderney, Sark, and Man, in taking fish, nor to any person or persons employed in boats or vessels that trade only from place to place within any river of Great Britain or Ireland. (4 and 5 Wm. IV. c. 52, ss. 5 and 6.)

“ A forfeiture may be waived by the party entitled to take advantage of it. And accordingly in the case of a foreign seaman, by whose articles it was provided, ‘that if any of the crew should absent themselves before the ship was unloaded, without the master’s leave, they should forfeit the whole of their wages,’ and who quitted the ship without leave in the port of *London*, before she was unloaded, and was absent a day and a night, but who afterwards returned to the

ship, and was received by the master, and worked in discharging the cargo in the same way as the other mariners, it was held that the master could not set up this absence as a defence to an action brought by the seaman for his wages.* But a forfeiture is not waived by the acceptance of a seaman's services whilst the ship is in distress, unless such acceptance be continued when the necessity for them has ceased. On the other hand, it cannot be insisted on, if the seaman's breach of duty be occasioned by the master's misconduct."†

The question of condonation can only arise in a case where the seaman has incurred a forfeiture of his whole wages. Specific forfeitures have been attached to instances of misconduct which are not of sufficient magnitude to deprive the offender of all his wages; and so far as regards the cases to which those forfeitures extend, they relieve those who have to decide between owners and masters and their seamen from the difficulty expressed by the present learned Judge of the Court of Admiralty in the case of the "Blake."‡ A seaman who absents himself without leave or neglects his duty, but afterwards returns and resumes the same, is to be punished by a definite forfeiture, proportioned in amount to the period of his temporary absence or neglect. In such case the seaman's return to duty cannot have the effect of superseding the forfeiture; but in the case of desertion or other gross

* *Miller v. Brant*, 2 Campb. 590.

† *Train v. Bennett*, 3 C. and P. 3. Abbott, (Shee's ed.) 581.

‡ Page 124.

misconduct, rendering a seaman liable to the loss of his whole wages, if the master afterwards consent to receive him, and avail himself of the service of such seaman in the ship, it would probably be held, on the principle of the cases referred to on this point, that the seaman should receive his wages, subject to deduction for the amount of any forfeiture imposed by the Act, for temporary misconduct of which he may have been guilty.

Upon the apprehension of a seaman for desertion, the master, mate or owner of the ship, or his agent will have the option of requesting the magistrate before whom he may be brought, instead of committing such seaman, to cause him to be conveyed on board the ship for the purpose of proceeding on the voyage; and if such master, mate, or owner, or his agent, should make such request and the magistrate should think fit to comply therewith; and if the seaman after his return to the ship should faithfully perform his duty during the remainder of the voyage, he could not be treated as a deserter liable to the forfeiture of *all* his wages and emoluments.

Under certain circumstances defined by the Act seamen are entitled to sums of money in addition to their wages; that is to say,—

If during the voyage the allowance of provisions shall be reduced as before stated, an addition is to be made to the seaman's wages of *four pence per day* if the quantity be reduced *one third or less*, and of *eight pence per day* if the reduction be more than one third, during the period such respective deductions may be made. (7 and 8 Vict. c. 112, s. 12.)

In case the master or owner shall neglect or refuse to make payment "in manner aforesaid,"* the seaman will be entitled, in addition to his wages, to two days pay for each day, not exceeding ten days, during which payment shall, without sufficient cause, be unlawfully delayed. (s. 11.)

And in case any Justice of the Peace should order immediate payment of a seaman's wages under the 14th section, the master or owner, in default of *immediate* compliance with such order, would forfeit five pounds, to be paid to the seaman in addition to his wages.

If any seaman, whose service shall terminate at any place out of Her Majesty's dominions, shall have defrayed the expenses of his passage home and subsistence, upon the refusal or neglect of the master so to do, such expenses are recoverable as wages due to the seaman. (s. 17.)

And if the master shall not give to a seaman a certificate of his service and discharge, in the form set forth in schedule (E), he is liable to forfeit and pay to the seaman, the sum of five pounds. (s. 13.)

Sufficient information has thus been collected to enable masters generally to form a right conclusion with regard to the amount of wages payable to their seamen, and to make out their several accounts accordingly. Having ascertained the balance due, a legal tender thereof should be made; that is to say, the money should be produced and offered in payment, and if it should be refused, masters will be exonerated

from the costs of proceedings resorted to by the seamen on proof of such tender, if the sum tendered shall appear sufficient.

The wages of a seaman should be paid *to him*, for they cannot *safely* be paid to any other person, upon a bill of sale or assignment, or on account of any attachment or incumbrance thereon. Bills of sale and attachments have frequently been made the instruments to defraud seamen of their wages; and although the effect of attachments was intended to be destroyed by the 5 and 6 Wm. IV. c. 19, s. 12, some of the inferior courts have continued to issue them for the purpose of attaching the wages of seamen. Their operation is however now defeated by the 12th section, (7 and 8 Vict. c. 112.) which declares—1st. That every payment of wages to a seaman shall be valid and effectual in law, notwithstanding any bill of sale or assignment thereof, or any attachment or incumbrance thereon; 2dly. That no assignment or sale of wages or salvage made prior to the accruing thereof, nor any power of attorney expressed to be irrevocable for the receipt of any such wages or salvage, shall be valid or binding upon the party making the same; and 3dly. That *“any attachment to be issued from any court whatever shall not prevent the payment of wages to any seaman.”*

The proceedings to be adopted by seamen in cases of dispute form the next subject of consideration. Section 15 establishes a summary power of deciding such cases, where the wages due and payable do not exceed twenty pounds. It is thereby enacted, that *“it shall be lawful for any Justice of the Peace in*

and for any part of Her Majesty's dominions, or the territories under the government of the East India Company, where or near to the place where the ship shall have ended her voyage, cleared at the Custom-house, or discharged her cargo, or where or near to the place where the party or either of the parties upon whom the claim is made shall be or reside, upon complaint on oath made to such Justice by such seaman, or on his behalf, to summon such party or parties to appear before him to answer such complaint; and upon the appearance of such party or parties, or, in default thereof, on due proof of him or them having been so summoned, such Justice is empowered to examine the parties and their respective witnesses (if there be any), upon oath, touching the complaint and the amount of wages due, and to inspect any agreement or copy thereof, if produced, and make such order for payment of the said wages, not exceeding twenty pounds, with the costs incurred by the seaman in prosecuting such claim, as shall to such justice appear reasonable and just; and in case such order shall not be obeyed within two days next after the making thereof, it shall be lawful for such Justice to issue his warrant to levy the amount of the wages awarded to be due, by distress and sale of the goods and chattels of the party on whom such order for payment shall be made, rendering to such party the overplus (if any shall remain of the produce of the sale), after deducting thereout all the costs, charges, and expenses incurred by the seaman in the making and prosecuting of the complaint, as well as the costs and charges of the distress and levy;

or to cause the amount of the said wages, costs, charges, and expenses to be levied on the ship in respect of the service on board which the wages are claimed, or on the tackle and apparel thereof; and if such ship shall not be within the jurisdiction of such Justice, or such levy cannot be made, or shall prove insufficient, then he is empowered to cause the party upon whom the order shall be made to be apprehended, and committed to the common gaol of the district or county, there to remain, without bail, until payment shall be made of the amount of the wages so awarded, and of all costs and expenses attending the recovery thereof; and the award and decision of such Justice as aforesaid shall be final and conclusive."

The doubts that have arisen upon the construction of the corresponding section in the 5 and 6 Wm. IV. c. 19, cannot now be entertained. The words of the new act give jurisdiction to any Justice of the Peace "in all cases of wages, not exceeding twenty pounds, which shall be due and payable to any seaman," without the slightest allusion to the description of vessel in which he may have served or the agreement entered into for his service; and it is clearly intended to give to a Justice of the Peace jurisdiction over all claims of seamen, not exceeding twenty pounds, however peculiar may be the circumstances of the case, because the act takes away every other remedy, by declaring that no suit or proceeding for the recovery of wages shall, unless they exceed twenty pounds, be instituted against the ship, or the master or owner thereof, in any Court of Admiralty or Vice Admiralty Court, or in any Court of Record, unless the owner

shall be bankrupt or insolvent, or the ship shall be under arrest or sold by the authority of any Admiralty or Vice Admiralty Court, *or unless any Magistrate acting under the authority of the Act shall refer the case to be adjudged by any such court or courts*, or unless neither the owner nor master shall be or reside at or near the port or place where the service shall have terminated, or where any seaman shall have been discharged or put on shore. (7 and 8 Vict. c. 112, s. 16.)

Persons employed in fishing vessels will have the benefit of the summary mode of proceeding now provided for the recovery of seamen's wages under twenty pounds. They are seamen within the meaning of the Act, and must each take out a register ticket. The interpretation clause prevents the existence of any doubt on this question, by declaring that the term "ship" is to be understood to comprehend every description of vessel navigating on any sea or channel, or waters outside the mouths of rivers, and also every vessel passing beyond the precincts of a port. (s. 63.)

In the case of the "*Edwin*,"* Sir John Nicholl said, "It was the object of the Legislature, in passing the statute 5 and 6 Wm. IV. c. 19, to assist mariners in a speedy recovery of their wages, and for that purpose, to give to magistrates a summary jurisdiction where the quantum of wages was merely in dispute; but it was not, I apprehend, intended to enable them to decide upon intricate questions of forfeiture, whether arising from imputed desertion, disobedience of orders,

* *Edwin, Robertson*, 3 Hagg. A. R. 364.

or from any other cause." In another case,* where the seaman quitted the ship without leave before the delivery of the cargo, for which the owners deducted a month's wages, the same learned Judge dismissed the suit, and said, "there is nothing in the case but what might have been disposed of by a magistrate."

But under the new Statute all seamen must apply to a magistrate for the recovery of wages under twenty pounds, unless the case shall be within either of the exceptions in section 16. And if any claim should seem to require the adjudication of a superior court, a magistrate must, nevertheless, exercise his jurisdiction in order to *refer it* to such court—because the case must be referred by a magistrate *acting under the authority of the act*. To be so acting the magistrate must assume jurisdiction; and upon the hearing it is probable that in many cases the parties would rather abide by the equitable adjustment of the magistrate than call upon him to refer the matter to another tribunal; but neither party can insist upon such reference, the question whether the case shall or shall not be so referred being left entirely to the discretion of the magistrate.

And the Act contains a provision for the benefit of a master in the case of the bankruptcy or insolvency of the owner of the ship, by giving him in such case all the rights, liens, privileges, and remedies, (save such remedies as are against a master himself,) which by the Act, or by any law, statute, custom, or usage belong to any seaman, not being a master mariner, in

* The "Test," *Brown*, 3 Hagg. A. R. 305.

respect to the recovery of his wages. (7 and 8 Vict. c. 112, s. 16.)

In proceedings for the recovery of wages, every copy of an agreement, certified and delivered as aforesaid, is in all cases to be received and taken as evidence of the contents of the agreement *for and on behalf of the seaman*; who is not required to produce the same or a certified copy thereof, or to give notice for the production thereof; but in case the agreement shall not be produced and proved, he will be at liberty to prove the contents or purport thereof, or to establish his claim by other evidence, according to the nature of the case. (s. 5.)

As to other proceedings to obtain payment of wages, it will not be necessary, in a work of this description, to go beyond a concise statement.

“The seamen have in ordinary cases a three-fold remedy: against the ship, the owners, and the master. The master, whether appointed to that office at the commencement, or having succeeded to it in the course of the voyage, can only sue the owners personally in a Court of Common Law. But as he generally receives the freight and earnings of the ship, and may pay himself out of the money in his hands, he has not often occasion for the aid of a court of justice to obtain his right. The suit of the seamen in the Court of Admiralty is an indulgence granted to them on account of the convenience and advantage of proceeding in a Court in which all may join in one suit, and payment may be obtained out of the value of the ship.*

* Abbott, (Shee's ed.) 587.

If a seaman be unduly discharged, either before the commencement of a voyage, or during its progress, he may sue in that court in cases where the voyage has been prosecuted; but when the owners abandon a voyage for which he may be engaged before its commencement, he will not be entitled to sue in that court, but must seek his remedy at common law.*

A purser or medical officer, serving as such on board a merchant ship, may sue for wages in the Court of Admiralty.†

“No seaman, by reason of any agreement, shall forfeit his lien upon the ship, nor be deprived of any remedy for the recovery of his wages to which he would otherwise be entitled against any person or persons whatever.” (7 and 8 Vict. c. 112, s. 5.)

Where there is a special agreement differing from the ordinary mariner’s contract, the Court of Admiralty has no power to adjudicate.‡

Foreign seamen may proceed against the ship in that Court, upon a written contract by the master to continue them on board, or to procure them a ship back to their own country with wages.§

And the Court of Admiralty has a right to interfere in suits for wages promoted by foreign seamen against foreign vessels. In the case of the “*Golubchick*,” a Russian vessel, three Spanish mariners claimed wages, and instituted the suit when the vessel was about to

* *City of London*, *Reynolds*, W. Rob. A. R. 1. 88.

† *Prince George*, *Shaw*, 3 Hagg. A. R. 376.

‡ *Mona*, *Glass*, W. Rob. A. R. 1. 137.

§ *Margaret*, *Nunn*, 3 Hagg. A. R. 238.

leave England in the prosecution of her voyage, without the sanction or consent of the Russian consul, or any other accredited agent of that government in this country, and Dr. Lushington said—"Upon general principle, I apprehend that this Court, administering, as it does, a part of the maritime law of the world, would have a right to interpose in cases of the present description; at the same time the exercise of this jurisdiction is discretionary with the Court, and if the consent of the representative of the government to which the vessel belongs is withheld, upon reasonable grounds being shown, the Court might decline to exercise its authority." The learned Judge having directed the Registrar to communicate with the Russian Consul, who declined to interfere in the cause, finally disposed of it with some observations, intimating that further consideration had confirmed his previous impression, but that he was in that case relieved from all doubt by the letter which had been addressed to the Court by the Russian Consul, and stated that the vessel was no longer to be navigated under the Russian flag, but to be peremptorily sold here. "The voyage," continued the learned Judge, "therefore must be considered as having terminated in this country, and the case is consequently one in which the Court is bound to exercise its jurisdiction. I wish it to be understood that, in all future cases of this kind, it must be held to be indispensable that notice of the intended proceedings should be given in the first instance to the representative of the foreign government. In so directing, I do not mean to intimate that the Court would feel imperatively bound to act in

accordance with the views that might be entertained by such representative, but I consider it expedient that such intimation should be given, in order that, if any objection should be taken against the prosecution of the proceedings in this Court, the Court being informed of the grounds upon which such objection is taken, might be enabled to form its own judgment of the sufficiency of such objection, and adopt such a course as may be most conducive to the furtherance of justice in the cause." *

A ship is liable to the seamen although she may not continue the property of the persons to whom she belonged at the time of their service.†

"In the Courts of Common Law, the seamen may sue either the master, as the person immediately contracting with them and answerable to them, or the owners, as the persons virtually contracting with them through the agency of the master, and answerable for the performance of his engagement."‡ All suits brought in the Court of Admiralty for seamen's wages, must be commenced within six years next after the cause of such suit or action shall accrue; and actions in the Courts of Common Law are limited to the same period.

Any master neglecting or refusing to pay over the wages of any deceased seaman, as directed by the 4 and 5 Wm. IV. c. 52, s. 30, will be liable under that act to forfeit double the amount of the wages due,

* Golubchick, *Bernardos*, W. Rob. A. R. 1. 143.

† Margaret, *Nunn*, 3 Hagg. A. R. 238, and *Prince George*, Shaw, 3 Hagg. A. R. 376.

‡ Abbott, (Shee's ed.) 595.

besides the penalty to which he may subject himself under the 7 and 8 Vict. c. 112, s. 31.*

Persons legally entitled to demand the wages, monies, clothes, or other effects of any deceased seaman, must apply to the Trustees of the port to which the ship belongs, or to the Receiver or Collector, or other authorized agent of the President and Governors of the Corporation for the relief and support of sick, maimed, and disabled Seamen, and of the Widows and Children of such as shall be killed, slain, or drowned in the Merchant Service," in London,† and if not claimed within two years, such wages, monies, clothes, and other effects will be forfeited to the use of the said President and Governors, or Trustees.

If a seaman be hurt in the course of a voyage, he may obtain relief from the fund under the control of the said President and Governors, or Trustees, on the production of a certificate to the said President and Governors, or their assistants and committees, of the "hurt or damage he hath received, from the master, mate, boatswain, and surgeon, or so many of them as were in the ship or vessel to which such seaman belonged at the time of his receiving such hurt or damage, or of the master and two of the seamen if there be no other officer, or in case the master shall die, or be killed or drowned, then of the person who shall take upon him the care of the ship or vessel, and two of the seamen on board the same, under their hands and seals, thereby signifying how and in what manner such seaman received such hurt or damage,

* Page 58.

† Office, Birchin Lane.

whether in fighting, defending, working, loading, or unloading the said ship or vessel, where and when he entered, and how long he had served on board the same. (4 and 5 Wm. IV. c. 52, s. 2.)

The parties so signing and sealing such certificate, are required by the statute to make oath of the truth of the contents thereof before a Justice of the Peace, if given in Great Britain or Ireland, or other Her Majesty's dominions, or the chief Officer of the Customs of the port or place where there is no Justice of the Peace, or before the British Consul or Resident in any foreign country where such certificate is executed; who are respectively authorized and required to administer such oath without fee or reward. (*id.*)

In case of sickness, whereby a seaman shall be rendered incapable of service, the Act requires a certificate to be "signed, sealed, and authenticated, in like manner, signifying that he was healthy when he entered on board such ship or vessel, and that such sickness was contracted on board the same, or on shore, in doing his duty in the service of the ship, and not otherwise, and expressing the time and place he entered on board such ship or vessel, and how long he had served therein." (*id.*)

In the case of any seaman "being killed, slain, or drowned, in the merchant service," the widow, child, or children, must either produce, or obtain some person on her or their behalf to produce a certificate, "signed, sealed, and authenticated in like manner, signifying how and in what manner such seaman lost his life in the service of the said ship or vessel, the time and place he entered on board, and how long he

had served therein;" and must also "produce, or cause to be produced, a certificate under the hands and seals of the minister and churchwardens and overseers of the poor of the parish, township, or place, or any two of them, or under the hands and seals of the minister and overseers of the poor of the parish, township, or place, or any two of them where there are no churchwardens, or if in Scotland, by the minister and elders, or if in Ireland by a Justice of the Peace for the parish, township, or place where such widow, child, or children shall at the time reside; and if such widow, child, or children are some of the people called Quakers, then by any two reputable persons of that persuasion of the parish, township, or place, where such widow, child, or children have a legal settlement, or do inhabit and reside, to be attested by two or more credible witnesses, that such widow was the lawful wife and real widow, and that such child or children was or were the lawful child or children of such deceased seaman as aforesaid, and that such child or children is or are under the age of fourteen years, or if of that age or upwards, not capable of getting a livelihood by reason of lameness, blindness, or other infirmities, and is or are proper objects of charity." (*id.*)

The 10th section of the same statute, requiring masters of ships to keep a book for the entry of all forfeitures incurred by seamen, is virtually repealed by the Merchant Seamen's Act, and need not be complied with, but the sections containing regulations for the due collection of the monthly duty payable to the Merchant Seamen's Fund must be strictly

observed. It has been stated that the same should be paid before the vessel be cleared inwards, and the 13th section prohibits officers of the customs from clearing any merchant ship inwards, and from granting any warrant, or giving or granting out any cockets, transire, returns, or discharges unto or for any ship or vessel whatsoever; and it also prohibits them from permitting or suffering any such ship or vessel to go out of port, until the master, commander, or owners of every such ship or vessel shall produce to such officers an acquittance or certificate signed by the receiver or collector of the said duties, that such master, commander, or owners, have duly and fully paid the said duties, and are not more than three months in arrear for the same, or that they are exempt from the payment thereof. And every master, commander, or owner, who shall refuse or neglect to pay the said duty in manner and within the time limited and appointed, will be liable to forfeit the sum of ten pounds. (s. 13.)

And to prevent unnecessary delays in clearing ships, it is enacted, that in case the master, commander, or owner of any vessel liable to the payment of the duties aforesaid, shall not produce such acquittance or certificate of payment, or of such an agreement as by the 13th section may be entered into for the payment of such duties, by half-yearly payments, at the port to which such ship or vessel belongs, to the tide surveyor when he shall come on board to clear such ship or vessel, the tide waiters on board such ship or vessel shall be continued until such acquittance or certificate is produced, at the expense

of such master, commander, or owner, and not at the expense of the Crown. (s. 14.)

Before we finish the detail of duties imposed on masters of merchant vessels we must recall their attention to the 7 and 8 Vict. c. 112, which requires that in case any indentures of apprenticeship of any description shall be cancelled, or any apprentice (parish or otherwise) shall die on shore or desert, or by reason of the vessel of the master not having made a voyage for six months, shall not be reported in either of the lists required to be delivered to the Collector or Comptroller of the Customs, such cancellation, death, desertion, or non-employment, shall forthwith be notified in writing by the master of the apprentice to the Registrar of Merchant Seamen if the ship on board which the apprentice was bound to serve shall belong to the port of London, or otherwise to the Collector or Comptroller of the port to which the said ship shall belong; and for every default the master will be liable to a penalty of ten pounds. (s. 38.)

And no cancellation of any indenture of apprenticeship will be valid without the mutual consent of the parties, or the consent stated in the same section.

Every indenture, together with the register ticket of the apprentice annexed thereto, must be given up to such apprentice on his attaining the age of twenty-one years, or at the expiration of his apprenticeship, whichever shall first happen, by the person to whom he shall be bound at the time, under a penalty of twenty pounds to be paid by such person on default; but should any apprenticeship, parish or otherwise, expire during a voyage, and before the ship's arrival

at her final port of destination in the United Kingdom, such apprenticeship shall notwithstanding, continue until the return of the ship to her final port of destination in the United Kingdom; but after one calendar month from the expiration of such apprenticeship the apprentice shall be paid the same wages as an able-bodied seaman or ordinary seaman of the said ship, according to his qualification. (s. 32.)

Section 30 enacts that all agreements, or copies thereof, lists, returns, register tickets, and other documents, which under the provisions of the Act are required to be transmitted or delivered to the Collectors or Comptrollers of the Customs of the several ports in the United Kingdom, shall, in the case of Pleasure Yachts, be transmitted or delivered by the masters or owners of such yachts direct to the Registrar of Seamen, and the owners or masters thereof shall be liable to the same penalties for default as provided in the Act in the cases of the masters or owners of other ships failing to transmit or deliver such documents to such Collectors and Comptrollers.

Section 62, which provides for the recovery of penalties and forfeitures, makes them recoverable either in any of Her Majesty's Courts of Record at Westminster, Edinburgh, or Dublin, or in the colonies or territories under the government of the East India Company, at the suit of Her Majesty's law officers respectively, or at the suit of any person by information and summary proceeding before any Justice or Justices of the Peace in and for any part of Her Majesty's dominions, or the territories under the government of the East India Company, where or near to the place where

the offence shall be committed or the offender shall be; and in case of a summary conviction under the Act and the sum imposed as a penalty by the Justice or Justices shall not be paid, either immediately after the conviction or within such period as the Justice or Justices shall at the time of the conviction appoint, the convicting Justice or Justices may commit the offender to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, according to the discretion of the Justice or Justices, for any term not exceeding six calendar months; the commitment to be determinable upon payment of the amount and costs. The Court or convicting Justice or Justices may pay a portion of such penalties, not exceeding one moiety, to the informer or person upon whose discovery or information the same shall have been recovered, and the residue is to be paid to the Seamen's Hospital Society. The Court or the Justice or Justices may reduce such penalty, as to such Court or Justices respectively shall appear just and reasonable; but no such penalty shall be reduced to less than one third of its original amount. Power is given to order costs against the informing or complaining party failing to prove the charge, which are to be recoverable in the same manner as penalties under the Act; and all proceedings so to be instituted are to be commenced within two years next after the commission of the offence, if the same shall have been committed at or beyond the Cape of Good Hope or Cape Horn; or within one year if committed elsewhere; or within two calendar months after the return of the offender and the complaining party to the United Kingdom.

The Seamen's Hospital Society, to whom "the residue" of such penalties and forfeitures is to be paid, is well known, and most properly selected to be the recipient. It was instituted in the year 1821 for the charitable relief of sick and distressed *seamen of all nations* in the Port of London, and incorporated in the year 1833 by Act of Parliament. (3 Wm. IV. c. 9.)*

If any part of the wages of deserters shall remain, after the reimbursement of the expenses occasioned by their desertion to the owner or master of the ship from which they shall have respectively deserted, such remainder is also to be paid to the Seaman's Hospital Society. (s. 9.)

The mode of proceeding against a Seaman who shall desert in parts beyond the seas, and thereby render it necessary for the master of his ship to engage a substitute, at a higher rate of wages than that stipulated in the agreement to be paid to the seaman so deserting, to recover the excess of wages which the master or owner shall pay to such substitute, is governed by section 62. Such excess is now to be recovered by summary proceeding, in the same manner as penalties are made recoverable (so far as the same can be applied) with a difference only in the limitation of the period of imprisonment. In default of payment of a penalty, the period may, at the discretion of the Justice, extend to any term not exceeding six calendar months; but in a proceeding for the recovery of any excess of wages paid to a substitute for a deserter, the imprisonment must be limited to three calendar months. (s. 9.)

* The office of the Society is at No. 74, King William Street.

Section 64 gives the Lords of the Admiralty a power similar to that possessed by the East India Company, of providing for and sending home *Asiatic* seamen at the expense of the owner and master of the ship in which they shall have been brought to the United Kingdom, with a material addition. The section includes *African* seamen, and contains more comprehensive terms than have been hitherto used in the description of *Asiatic* seamen. It enacts that *if any person*, being a Malay, Lascar, or native of the territories under the Government of the East India Company, or if any *Asiatic* or *African* seaman, having been brought to the United Kingdom on board any ship, shall be found or be in the United Kingdom in distress, for want of food, clothing, or other necessities, it shall be lawful for the Commissioners for executing the office of Lord High Admiral of the United Kingdom, at their discretion, to supply necessary and reasonable relief to every such *person and* seaman, and to maintain him until he shall be sent on board some ship, for the purpose of being conveyed to or near to the port from which he was shipped, and also to pay, defray, and advance the money necessary to procure every such *person and* seaman a proper and sufficient passage to such port; and all such sum or sums of money as shall be paid by or by order of the said Commissioners, for or on account of such relief, maintenance, and passage, will be recoverable as a debt due to Her Majesty, with full costs of suit, from the owner and master, or either of them, of the ship on board whereof such person or seaman shall have been brought from Asia or Africa.

The Act (7 and 8 Vict. c. 112,) does not extend or apply to any ship registered in or belonging to any British colony having a legislative assembly, or to the crew of any such ship, while such ship shall be within the precincts of such colony; "but every ship belonging to any colony or possession of Her Majesty, when proceeding from one part of the United Kingdom to another, or from the United Kingdom to the islands of Jersey, Guernsey, Alderney, Sark, or Man, or from any port in the United Kingdom to any port or possession of any foreign power or country, or to any colony to which the ship shall not belong, shall be held to come within the provisions of the Act"; and the Act is extended to the same; and the owner, master, and crew, including apprentices of such ship so trading as aforesaid, are declared liable to the provisions of the act, as fully as the owner, master, and crew of any British registered ship; and the Act and the provisions thereof (except so far as the same relate to agreements, register tickets, and having apprentices), are to extend and apply to ships belonging to all of Her Majesty's colonies and possessions abroad, wherever otherwise proceeding or trading, and to the owners, masters, and crews of such ships, when any such ship shall be beyond the precincts of the colony or possession to which she shall belong; and all certificates and sanctions required by the Act "to be endorsed on agreements, shall, in the case of ships last referred to, be otherwise given in writing where no written agreement exists." (s. 61.)

APPENDIX, No. I.

7 AND 8 VICTORIA, c. 112.

An Act to amend and consolidate the Laws relating to Merchant Seamen; and for keeping a Register of Seamen.

[5th September, 1844.]

WHEREAS the prosperity, strength, and safety of this United Kingdom and her Majesty's dominions do greatly depend on a large, constant, and ready supply of seamen; and it is therefore expedient to promote the increase of the number of seamen, and to afford them all due encouragement and protection, and for this purpose to amend and consolidate the laws relating to them; and it is also expedient to keep a register of seamen: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that from and after the first day of *January* one thousand eight hundred and forty-five, from which day this Act shall commence and take effect, an Act passed in the sixth year of the reign of His late Majesty King *William*

7 and 8 Vict
c. 112.

The Act 5 &
W. 4. c. 19. 1
pealed from
and after
1st Jan. 18.
except, &c.

and 8 Viet.
112.

the Fourth, intituled *An Act to amend and consolidate the laws relating to the Merchant Seamen of the United Kingdom, and for forming and maintaining a register of all the men engaged in that service*, shall be and the same is hereby repealed, except so far as such Act repeals the Acts thereby repealed, and except so far as relates to the establishment, maintenance, and regulations of the office called "The General Register Office of Merchant Seamen:" Provided always, that all offences which shall have been committed and all penalties and forfeitures which shall have been incurred previously to the commencement of this Act shall and may be punishable and recoverable respectively under the above-mentioned Act as if the same had not been repealed; provided also, that all acts and things made, done, or executed under or by virtue of and in accordance with the provisions of the said Act passed in the sixth year of the reign of His late Majesty King *William* the Fourth, prior to the commencement of this Act, shall be good, valid, and effectual to all intents and purposes.

No seaman to
be taken to sea
without a
written agree-
ment, or with-
out a register
ticket being
obtained from
such seaman.

II. And be it enacted, that it shall not be lawful for any master of any ship, of whatever tonnage or description, belonging to any subject of Her Majesty, proceeding to parts beyond the seas, or of any *British* registered ship of the burden of eighty tons or upwards employed in any of the fisheries of the United Kingdom, or in proceeding coastwise, or otherwise, from one part of the United Kingdom to another, to carry to sea any seaman as one of his crew or complement (apprentices excepted), unless the master of such ship shall have first made and entered into an agree-

ment in writing with such seaman, specifying what wages such seaman is to be paid, the quantity of provisions he is to receive, the capacity in which he is to act or serve, and the nature of the voyage in which the ship is to be employed, so that such seaman may have some means of judging of the period for which he is likely to be engaged; and that such agreement shall be properly dated, and shall be signed by such master in the first instance, and by the seamen respectively at the port or place where they shall be shipped; and that the signature of each of the parties thereto shall be duly attested by one witness at the least, and that the master shall cause the agreement to be read over and explained to every such seaman in the presence of such witness, before such seaman shall execute the same; and it shall not be lawful for the master of any ship to carry to sea any seaman, being a subject of Her Majesty, until he shall also have first obtained from every such seaman or other person his register ticket (to be procured as herein-after mentioned), which ticket the said master is hereby required to retain (except in the cases herein-after provided) until the service of such seaman shall have terminated, and at the termination of such service the said master shall return the register ticket to him.

7 and 8 Vict.
c. 112.

Agreement to
be read over
and explained
to seamen.

III. And be it enacted, that in the case of any ships, of whatever tonnage or description, belonging to any subject or subjects of Her Majesty, and proceeding to parts beyond the seas, (except as herein-after provided,) the agreement shall be in the form set forth in schedule (A.) to this Act annexed, and shall contain the several particulars therein mentioned

Regulations
respecting
form of agree-
ments, and
how to be di-
posed of.

7 and 8 Vict.
c. 112.

or required; and the master shall, within twenty-four hours after the ship's arrival at her final port of destination in this United Kingdom, deliver or cause to be delivered to the Collector or Comptroller of the Customs at and for such port every agreement so made as aforesaid, or a true copy thereof, and of every endorsement thereon, the agreement, or copy thereof, in either case, to be certified as such by such master or owner, and also by the mate or next officer (if any) of such ship or vessel, each of whom is hereby required to sign such certificate in the presence of one attesting witness at the least; and if the original agreement be delivered to such Collector or Comptroller he shall retain the same until all the wages to which the agreement relates shall be paid or satisfied, and then he shall transmit such original agreement to the Registrar of Seaman; and no such ship shall be cleared inwards by the Tide Surveyor or other officer until the master shall produce and show a certificate from such Collector or Comptroller (which he is hereby required to give) to the effect that he has delivered his agreement, or an attested copy thereof, as aforesaid; and the Tide Waiters left on board shall be maintained at the expense of the master or owner until such certificate shall be produced and shown, or until it shall be proved to the satisfaction of the Tide Surveyor or other officer that such agreement or agreements, or such copy thereof, has or have been so delivered as aforesaid; and in the case of any ship employed in fishing on the coasts of the United Kingdom, or proceeding from one part of the United Kingdom to another, or proceeding to any of the islands of *Jersey*,

No ship to be cleared inwards until receipt for agreement is produced.

Guernsey, Alderney, Sark, and Man, or to any place ^{7 and 8 Vict. c. 112.} on the Continent of *Europe* between the river *Elbe* inclusive and *Brest*, the agreement shall be in the form set forth in schedule (B.) to this Act annexed, and shall contain the several particulars therein mentioned or required; and every such agreement shall not extend beyond the thirtieth of *June* and the thirty-first of *December* in each year, or on arrival in any port of the United Kingdom after the same respective dates; and the owner or master of every such ship as last aforesaid shall, within twenty-one days next after the thirtieth day of *June* and the thirty-first day of *December* in each year, transmit or deliver, or cause to be transmitted or delivered, to the Collector or Comptroller of the Customs of any port of the United Kingdom, every agreement made within the six months next preceding such thirtieth day of *June* and thirty-first day of *December* respectively, or a true copy thereof, and of every endorsement thereon, certified as aforesaid; and such Collectors and Comptrollers respectively shall and are hereby required to give a receipt (specifying the nature of the document) for every agreement or other document, or such copy thereof, to the master, owner, or person so delivering the same; and no master or owner, after the expiration of the said twenty-one days, shall be entitled to or receive a transire, or any other Customs document necessary for the conduct of the business of the ship, until he shall produce and show such receipt, or shall prove to the satisfaction of the officer that every such agreement, or such copy thereof as aforesaid, has been duly delivered as aforesaid; and the owner or master

Agreements in form of schedule (B.) not to extend beyond 30th June and 31st December.

Owner or master to deliver such agreements or copies thereof half-yearly.

Vessel not to receive transire, &c. until receipt for such agreement be produced.

7 and 8 Vict.
c. 112.

Masters of
vessels under
eighty tons in
coasting or
fishing trade to
receive tickets
from seamen.

Penalty for
default.

of every ship under the burden of eighty tons, employed as last aforesaid, who is not required by this Act to enter into any written agreement with his crew, shall, before employing any seaman or other person in the service of his ship, receive from every such seaman or other person his register ticket, and shall retain the same until the service of such seaman or other person shall have expired, and at the expiration of such service the master shall return the register ticket to the person entitled thereto.

IV. And be it enacted, that if any master or owner shall carry out to sea any seaman (apprentices excepted) without having first entered into the required agreement with such seaman, or if any master shall not obtain from any seaman or other person, being a subject of Her Majesty, his register ticket, according to the provisions of this Act, he shall in either and every of such cases forfeit and pay the sum of ten pounds for and in respect of every such seaman; and if any master or owner shall neglect to cause such agreement to be read over and explained to such seaman before the signing or execution thereof by such seaman, the said master or owner shall for each neglect forfeit and pay the sum of five pounds for every such seaman; and if any master or owner shall neglect or omit to deliver or cause to be delivered to such Collector or Comptroller any such agreement, or such copy thereof as aforesaid, or shall not deliver up any register ticket to the person entitled to it at the expiration of his service, or otherwise, as required by this Act, he shall for every such neglect, omission, or offence forfeit and pay the sum of ten pounds, or if

any master or owner shall deliver or cause to be delivered a false copy of the agreement he shall for every such offence forfeit and pay the sum of twenty pounds.

7 and 8 Vict.
c. 112.

V. And be it enacted, that no seaman, by reason of any agreement, shall forfeit his lien upon the ship, nor be deprived of any remedy for the recovery of his wages to which he would otherwise be entitled against any person or persons whatever; and no agreement contrary to or inconsistent with this Act, nor any clause, contract, or engagement whereby any seaman shall consent or promise to forego or give up any right or claim to wages in the case of freight earned by a ship subsequently lost, or any right or claim to salvage or reward for salvage services, or such proportion of salvage or reward for salvage services as shall or may be due to him by decree or award, or otherwise, shall be valid or binding on such seaman; and every copy of an agreement so certified and delivered as aforesaid shall in all cases be received and taken as evidence of the contents of the agreement for and on behalf of the seaman; and no seaman shall in any case be required to produce such agreement, or such copy as aforesaid, or to give notice for the production thereof; but in case the agreement shall not be produced and proved he shall be at liberty to prove the contents or purport thereof, or to establish his claim by other evidence, according to the nature of the case.

Seamen not to be deprived of legal remedies

No agreement contrary to the Act, or to forego salvage, to be valid; and certified copy of agreement to be evidence.

Seamen not bound to produce agreement.

VI. And be it enacted, that in case a seaman, whether before the commencement or during the progress of any voyage, shall at any time neglect or refuse to join the ship on board of which he shall have

Seamen refusing to join, or to proceed in the ship, or absenting themselves may be com-

and 8 Vict.
112.

mitted to gaol,
or be sent on
board.

engaged to serve, or shall refuse to proceed to sea in such ship, or shall absent himself therefrom without leave, or shall desert, it shall be lawful for any Justice of the Peace in and for any of Her Majesty's dominions, or the territories under the government of the *East India* Company, where or near to the place where such ship shall happen to be, or where such seaman shall be found, and such Justice is hereby required, upon complaint made upon oath by the master, mate, or owner, or his agent, to issue his warrant, and cause such seaman to be apprehended, and brought before him; and in case such seaman shall not give a reason to the satisfaction of such Justice for his neglect, refusal, or absence, as the case may be, or in case of desertion, it shall be lawful for any such Justice, upon due proof of such neglect, refusal, absence, or desertion, to commit such seaman to prison or to the house of correction, there to be imprisoned, with or without hard labour, at the discretion of such Justice, for a period not exceeding thirty days; or it shall be lawful for the said Justice, if he shall so think fit, at the request of the master, mate, or owner, or his agent, instead of committing such seaman, to cause him to be conveyed on board the said ship, or to be delivered to the master, mate, or owner, or his agent, for the purpose of being so conveyed and proceeding on the voyage, and also to award to the master or owner such costs incurred in the apprehension of the seaman as to such Justice shall seem reasonable, not exceeding in any case the sum of forty shillings, which shall be chargeable against and may be deducted from the wages of such seaman; and when-

ever any seaman shall be committed to prison or to any house of correction, the Justice shall cause his register ticket to be delivered to the governor or keeper of such prison or house of correction, who shall retain the same during the period of the seaman's imprisonment, and at the expiration of such period shall return the register ticket to the seaman; and whenever a seaman shall be sentenced to death or transportation the officer having the custody of such seaman shall transmit his register ticket to the Registrar of Seamen.

7 and 8 Vict.
c. 112.

When seaman
committed to
prison his
ticket to be
delivered to
gaoler.

VII. And be it enacted, that if any seaman during the time or period specified for his service shall wilfully and without leave absent himself from the ship, or otherwise from his duty, he shall (in all cases not of desertion, or not treated as such by the master,) forfeit out of his wages the amount of two days pay, and for every twenty-four hours of such absence the amount of six days pay, or, at the option of the master, the amount of such expenses as shall have been necessarily incurred in hiring a substitute; and in case any seaman while he shall belong to the ship shall without sufficient cause neglect or refuse to perform such his duty as shall be reasonably required of him by the master or other person in command of the ship, he shall be subject to a like forfeiture in respect of every such offence, and of every twenty-four hours continuance thereof; and in case any such seaman, after the ship's arrival at her port of delivery, and before her cargo shall be discharged, shall quit the ship, without a previous discharge or leave from the master, he shall forfeit one month's pay out of his wages: provided always, that no such forfeiture shall be in-

Forfeiture of
temporary a
sence from
refusal to pe
form his dut

Proviso.

and 8 Vict.
c. 112.

curring unless the fact of the seaman's absence, neglect, or refusal shall be duly entered in the ship's Log-book, the truth of which entry it shall be incumbent on the owner or master, in all cases of dispute, to substantiate by the evidence of the mate or some other credible witness.

How amount
of forfeiture is
to be ascer-
tained when
seamen con-
tract for the
voyage.

VIII. And be it enacted, that in all cases where the seaman shall have contracted for wages by the voyage or by the run or by the share, and not by the month or other stated period of time, the amount of forfeitures to be incurred by seamen under this Act shall be ascertained in manner following; (that is to say,) if the whole time spent in the voyage agreed upon shall exceed one calendar month, the forfeiture of one month's pay expressed in this Act shall be accounted and taken to be a forfeiture of a sum of money bearing the same proportion to the whole wages or share as a calendar month shall bear to the whole time spent in the voyage; and in like manner a forfeiture of six days pay, or less, shall be accounted and taken to be a forfeiture of a sum bearing the same proportion to the whole wages or share as the six days or other period shall bear to the whole time spent in the voyage; and if the whole time spent in the voyage shall not exceed the period for which the pay is to be forfeited the forfeiture shall be accounted and taken to be a forfeiture of the whole wages or share; and the master or owner is hereby authorized to deduct the amount of all forfeitures out of the wages or share of any seaman incurring the same.

Forfeiture for
desertion.

IX. And be it enacted, that any seaman or other person who shall desert the ship to which he shall

belong shall forfeit to the owner thereof all his clothes and effects which he may leave on board, and he shall also forfeit all wages and emoluments to which he might otherwise be entitled; and in case of any seaman deserting abroad he shall likewise forfeit all wages and emoluments whatever which shall be or become due or be agreed to be paid to him from or by the owner or master of any other ship in the service whereof such seaman may have engaged for the voyage back to the United Kingdom; and that all wages and portions of wages and emoluments which shall in any case whatever become forfeited for desertion shall be applied, in the first instance, in or towards the reimbursement of the expenses occasioned by such desertion to the owner or master of the ship from which the seaman shall have deserted, and the remainder shall be paid to the Seamen's Hospital Society; and the master shall, in case of desertion in the United Kingdom, deliver up the register ticket of such seaman or other person to the Collector or Comptroller of the Customs at the port: provided always, that every desertion be entered in the Log-book at the time, and certified by the signatures of the master and the mate, or the master and one other credible witness; and that the absence of a seaman from his ship for any time within twenty-four hours immediately preceding the sailing of the ship from any port, whether before the commencement or during the progress of any voyage, wilfully and knowingly, without permission, or the wilful absence of a seaman from his ship at or for any time without permission, and under circumstances showing an intention to abandon the same, and not return thereto,

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c. 112.

shall be deemed a desertion of and from the ship; and in case any seaman shall desert in parts beyond the seas, and the master of the ship shall engage a substitute at a higher rate of wages than that stipulated in the agreement to be paid to the seaman so deserting, the owner or master of the ship shall be entitled to recover from the deserter, by summary proceeding, in the same manner as penalties are by this Act made recoverable (so far as the same can be applied), any excess of wages or portion thereof which such owner or master shall pay to such substitute beyond the amount which would have been payable to the deserter in case he had duly performed his service pursuant to his agreement: provided always, that no seaman shall be imprisoned longer than three calendar months for non-payment of any such excess of wages.

Penalty for
harbouring
deserters.

X. And be it enacted, that if any person shall wilfully harbour or secrete any seaman or apprentice who shall have deserted from his ship, knowing or having reason to believe such seaman or apprentice to be a deserter, every person so offending shall for every such seaman or apprentice so harboured or secreted forfeit and pay the sum of ten pounds; and no debt exceeding in amount five shillings, incurred by any seaman after he shall have engaged to serve, shall be recoverable until the service agreed for shall have been concluded; nor shall it be lawful for any keeper of a public house, or of a lodging house for seamen, to detain any chest, tools, or other property of any seaman for any debt alleged to have been contracted by him; and in case of such detention of the chest, tools, or other property of a seaman, it shall be lawful for any Justice of the

No debt exceeding 5s. recoverable from a seaman till voyage is ended.

Seaman's effects not to be detained under pretence of debt.

Peace at or near the place, upon complaint upon oath ^{7 and 8 Vict. c. 112.} to be made by such seaman or on his behalf, to inquire into the matter upon oath in a summary way; and if it shall appear to such Justice that the alleged claim is fraudulent, or that the debt was not fairly incurred to the full amount of the claim, by warrant under his hand and seal to cause such effects to be seized and delivered over to such seaman; and the person so detaining the same shall forfeit and pay a sum not exceeding ten pounds, at the discretion of such Justice. ^{Penalty.}

XI. And be it enacted, that the master or owner of every ship shall and is hereby required to pay to every seaman his wages within the respective periods following; (that is to say,) if the ship shall be employed in coasting, the wages shall be paid within two days after the termination of the agreement, or at the time when any such seaman shall be discharged, whichever shall first happen; and if the ship shall be employed otherwise than coasting, then the wages shall be paid at the latest within three days after the cargo shall have been delivered, or within seven days after the seaman's discharge, whichever shall first happen; and in all cases the seaman shall, at the time of his discharge, be entitled to be paid, on account, a sum equal to one fourth part of the balance due to him; and in case the master or owner shall neglect or refuse to make payment in manner aforesaid, he shall for every such neglect or refusal forfeit and pay to the seaman the amount of two days pay (to be recovered as wages) for each day, not exceeding ten days, during which payment shall, without sufficient cause, be delayed beyond the respective periods aforesaid: provided ^{The period within which wages are to be paid.}

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c. 112.

always, that nothing in this clause contained shall extend to the cases of ships employed in the Southern whale fishery, or on voyages for which seamen, by the terms of their agreement, are wholly compensated by shares in the profits of the adventure.

Payment of
wages or sal-
vage to be
deemed valid,
notwithstand-
ing bill of sale,
&c.

XII. And be it enacted and declared, that every such payment of wages to a seaman shall be valid and effectual in law, notwithstanding any bill of sale or assignment which may have been made of such wages, or of any attachment or incumbrance thereon, and that no assignment or sale of wages or salvage made prior to the accruing thereof, nor any power of attorney expressed to be irrevocable for the receipt of any such wages or salvage, shall be valid or binding upon the party making the same, and any attachment to be issued from any court whatever shall not prevent the payment of wages to any seaman; and if during the voyage the allowance of provisions which a seaman agreed to receive shall be reduced one third of the quantity or less, he shall receive four-pence *per* day, and if the reduction be more than one third he shall receive eight pence *per* day, during the period such respective deductions may be made, and such pecuniary allowance shall be paid to him in addition to and be recoverable as wages.

Allowance for
short provi-
sions.

Masters to
give seamen
their certifi-
cates on their
discharge.

XIII. And be it enacted, that upon the discharge of a seaman from any ship, or upon payment of the wages to him, he shall receive from the master, and the master is hereby required to give to him, not only his register ticket, but also a certificate of such seaman's service and discharge, in the form set forth in schedule (E.) to this Act annexed, specifying the

period of his service, and the time and place of his discharge, which certificate shall be signed by the master, and if the master shall not give such certificate to such seaman he shall forfeit and pay to him the sum of five pounds.

7 and 8 Vict
c. 112.

Penalty for
default.

XIV. And be it enacted, that if three days after the termination of the stipulated service, or if three days after a seaman shall have been discharged, he shall be desirous of proceeding on another voyage, and in order thereto, or for any other sufficient reason, shall require immediate payment of any amount of wages, not exceeding twenty pounds, due to him, it shall be lawful for any Justice of the Peace, in and for any part of Her Majesty's dominions or the territories under the government of the *East India* Company, where or near to the port or place where such service shall have terminated, or such seaman shall have been discharged, or the party or parties liable shall be or reside, on application from such seaman, and on satisfactory proof that he would be prevented from employment or incur serious loss or inconvenience by delay, to summon such party or parties before him, and if it shall appear to the satisfaction of such Justice that there is no reasonable cause for delay, to order payment to be made forthwith, and in default of immediate compliance with such order such party or parties shall forfeit and pay to such seaman, in addition to his wages, the sum of five pounds.

For obtain
immediate
payment of
wages in c
tain cases.

XV. And be it enacted, that in all cases of wages, not exceeding twenty pounds, which shall be due and payable to any seaman, it shall be lawful for any Justice of the Peace in and for any part of Her Majesty's

Summary
mode of rec
vering wage

7 and 8 Vict.
c. 112.

dominions or the territories under the government of the *East India* Company, where or near to the place where the ship shall have ended her voyage, cleared at the Custom House, or discharged her cargo, or where or near to the place where the party or either of the parties upon whom the claim is made shall be or reside, upon complaint on oath made to such Justice by such seaman, or on his behalf, to summon such party or parties to appear before him to answer such complaint; and upon the appearance of such party or parties, or, in default thereof, on due proof of him or them having been so summoned, such Justice is hereby empowered to examine the parties and their respective witnesses (if there be any) upon oath, touching the complaint, and the amount of wages due, and to inspect any agreement or copy thereof, if produced, and make such order for payment of the said wages, not exceeding twenty pounds, with the costs incurred by the seaman in prosecuting such claim, as shall to such Justice appear reasonable and just; and in case such order shall not be obeyed within two days next after the making thereof it shall be lawful for such Justice to issue his warrant to levy the amount of the wages awarded to be due, by distress and sale of the goods and chattels of the party on whom such order for payment shall be made, rendering to such party the overplus (if any shall remain of the produce of the sale), after deducting thereout all the costs, charges, and expenses incurred by the seaman in the making and prosecuting of the complaint, as well as the costs and charges of the distress and levy; or to cause the amount of the said wages, costs, charges, and expenses

to be levied on the ship in respect of the service on board which the wages are claimed, or on the tackle and apparel thereof; and if such ship shall not be within the jurisdiction of such Justice, or such levy cannot be made, or shall prove insufficient, then he is hereby empowered to cause the party upon whom the order shall be made to be apprehended, and committed to the common gaol of the district or county, there to remain without bail until payment shall be made of the amount of the wages so awarded, and of all costs and expenses attending the recovery thereof; and the award and decision of such Justice as aforesaid shall be final and conclusive.

XVI. And be it enacted, that all the rights, liens, privileges, and remedies (save such remedies as are against a master himself) which by this Act, or by any law, statute, custom, or usage, belong to any seaman or mariner, not being a master mariner, in respect of the recovery of his wages, shall, in the case of the bankruptcy or insolvency of the owner of the ship, also belong and be extended to masters of ships or master mariners, in respect to the recovery of wages due to them from the owner of any ship belonging to any of Her Majesty's subjects; and that no suit or proceedings for the recovery of wages shall, unless they exceed twenty pounds, be instituted against the ship, or the master or owner thereof, either in any Court of Admiralty or Vice Admiralty Court, or any Court of Record in Her Majesty's dominions, or the territories under the government of the *East India Company*, unless the owner of the ship shall be bankrupt or insolvent, or the ship shall be under arrest or sold by the autho-

7 and 8 Vict
c. 112.

Masters to
have same
remedies for
wages as a
seaman.

As to suits f
recovery of
wages.

7 and 8 Vict.
c. 112.

rity of any Admiralty or Vice Admiralty Court, or unless any magistrate acting under the authority of this Act shall refer the case to be adjudged by any such Court or Courts, or unless neither the owner nor master shall be or reside at or near the port or place where the service shall have terminated, or where any seaman shall have been discharged or put on shore.

When ship is sold at foreign port, the crew to be sent home at the expense of the master or owner, and ticket and certificate of discharge to be given.

XVII. And be it enacted, that when any ship whatever, belonging to any subject of Her Majesty, shall be sold, transferred, or disposed of at any port out of Her Majesty's dominions, in all such cases (unless the crew in the presence of the *British* Consul or Vice Consul, or in case of there not being any such Consul or Vice Consul, then in the presence of one or more *British* resident merchants, not interested in the said ship, shall signify their consent in writing to complete the voyage if continued), or whenever the service of any seaman shall terminate at any place out of Her Majesty's dominions, the master shall and he is hereby required to give to each of the crew and to each of the seamen whose service shall terminate as last aforesaid, a certificate of discharge in the said form set forth in schedule (E.), and also his register ticket, and, besides paying the wages to which they shall respectively be entitled, either to provide them with adequate employment on board some other *British* vessel homeward bound, or to furnish the means of sending them back to the port in Her Majesty's dominions at which they were originally shipped, or to such other port in the United Kingdom as shall be agreed upon between him and them respectively, or to provide them with a passage home, or to deposit with

the Consul or Vice Consul, merchant or merchants as aforesaid, such a sum of money as shall be by them deemed sufficient to defray the expenses of the subsistence and passage of such seamen; and if the master shall refuse or neglect so to do, such expenses, when defrayed by such Consul or Vice Consul, or any other person on behalf of the seaman, shall be a charge upon the owner of such ship, except in cases of barratry, and may be recovered against such owner as so much money paid to his use, together with full costs, at the suit of the Consul or other person defraying such expenses, or as a debt due to Her Majesty, in case the same shall have been allowed to the Consul out of the public monies, and if defrayed by the seaman shall be recoverable as wages due to him; and in all cases of wreck or loss of the ship every surviving seaman shall be entitled to his wages up to the period of the wreck or loss of the ship, whether such ship shall or shall not have previously earned freight; provided the seaman shall produce a certificate from the master or chief surviving officer of the ship, to the effect that he had exerted himself to the utmost to save the ship, cargo, and stores.

7 and 8 Vict
c. 112.

Wages to
paid in case
wreck.

XVIII. And be it enacted, that every ship navigating between the United Kingdom and any place out of the same shall have and keep constantly on board a sufficient supply of medicines and medicaments suitable to accidents and diseases arising on sea voyages, in accordance with the scale which shall from time to time or at any time be issued by the Lord High Admiral, or by the Commissioners for executing the office of Lord High Admiral, and published in the

A supply of
medicines,
lime juice,
sugar, and
vinegar, &c
to be kept
board, and
seamen hur
in the servi
of the ship
be provided
with advice
&c. gratis.

7 and 8 Vict.
c. 112.

London Gazette; and every ship (except those bound to *European* ports or to ports in the *Mediterranean Sea*) shall also have on board a sufficient quantity of lime or lemon juice, sugar, and vinegar, the lime or lemon juice, sugar, and vinegar to be served out to the crew whenever they shall have been consuming salt provisions for ten days; the lime or lemon juice and sugar daily, after the rate of half an ounce each *per* day, and the vinegar weekly, at the rate of half a pint *per* week to each person, so long as the consumption of salt provisions be continued; and in case any default shall be made in providing and keeping such medicines, medicaments, and lime or lemon juice, sugar, and vinegar, the owner of the ship shall incur a penalty of twenty pounds for each and every default; and in case of default of serving out such lime or lemon juice, sugar, or vinegar as aforesaid, the master shall incur a penalty of five pounds for each and every default; and in case the master or any seaman shall receive any hurt or injury in the service of the ship, the expense of providing the necessary surgical and medical advice, with attendance and medicines, and for his subsistence until he shall have been cured, or shall have been brought back to some port of the United Kingdom, shall, together with the costs of his conveyance to the United Kingdom, be defrayed by the said owner of the ship without any deduction whatever on that account from the wages of such master or seaman; and, if paid by any officer or other person on behalf of Her Majesty, the amount, with full costs of suit, shall be recovered as a debt due to Her Majesty; and every ship having one hundred

persons or upwards on board, and every ship the voyage of which shall be deemed under the provisions of the Act passed in the sixth year of the reign of Her present Majesty, intituled *An Act for regulating the Carriage of Passengers in Merchant Vessels*, to exceed twelve weeks, having fifty persons or upwards on board, shall have on board, as one of her complement, some person duly authorized by law to practise in this kingdom as a physician, surgeon, or apothecary; and in case of every default the owner shall incur a penalty not exceeding one hundred pounds.

7 and 8 Vict.
c. 112.

What ships
carry sur-
geons.

XIX. And whereas in and by the said Act passed in the sixth year of the reign of His late Majesty King *William* the Fourth it was provided, that as soon as conveniently might be after the passing of that Act there should be established in the Port of *London* an office to be called "The General Register Office of Merchant Seamen," which should consist of a Registrar and such assistants and clerks, with such salaries and allowances as should be fixed and regulated from time to time by the Lord High Admiral or the Commissioners for executing the office of Lord High Admiral of the United Kingdom for the time being; and that such office should be kept at the Custom House of the said port, and daily attendance be given thereat during the usual hours of business there; and that the said Registrar, his assistants and clerks, should be under the control and directions of the said Lord High Admiral or the Commissioners for executing the office aforesaid for the time being: and whereas such office was established under and in pursuance of the said Act, and it is expedient to maintain and continue the

Maintenance
of a Gener
Register and
Record Offi
of Seamen.

7 and 8 Vict.
c. 112.

same under the title of "The General Register and Record Office of Seamen;" be it therefore enacted, that such office, salaries, and allowances, with every thing appertaining to the said office, shall be maintained and continued in manner and form, and subject to such regulations, directions, and control, as the said Lord High Admiral or the Commissioners for executing the office of Lord High Admiral for the time being have directed or shall direct; and the said Lord High Admiral or the Commissioners for executing the office of Lord High Admiral for the time being shall have power to fix and regulate such fees as he or they may deem proper to be paid by the applicants for the inspection and copies of documents in the said office.

Register
tickets to be
procured.

XX. And be it enacted, that every person, being a subject of Her Majesty, intending to serve on board any ship subject to the provisions of this Act (except as master or physician, surgeon or apothecary), shall and he is hereby required to provide himself with a register ticket, and for that purpose to apply personally at the General Register and Record Office of Seamen in *London*, or at the Custom Houses of the several outports of the United Kingdom; and every applicant is hereby required to answer truly, to the best of his ability, all the questions set forth in schedule (F.) to this Act annexed, before he shall be entitled to receive his register ticket; and no person shall serve in any capacity on board any ship subject to any of the provisions of this Act (except the master, physician, surgeon, or apothecary) who is not possessed of such register ticket; and the masters of all apprentices who shall be bound after the commencement of

Masters to
bring inden-
tures and ap-

this Act, or whose apprenticeships shall be in force when this Act takes effect, shall, before commencing a voyage, bring all indentures and assignments of apprenticeships, together with the apprentices themselves, to the Registrar of Seamen in *London*, or to the Custom House of the nearest port, in order that each of such apprentices may be furnished with a register ticket, which ticket shall be annexed and be kept annexed to the original indenture retained by the master, and shall be delivered up to the apprentice by the master at the expiration of the apprenticeship; and the Registrar of Seamen and the Collectors and Comptrollers of Customs respectively are hereby required to grant such tickets to all seamen and other persons requiring the same, and duly complying with the provisions aforesaid.

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C. 112.
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to obtain
tickets.

XXI. And be it enacted, that if any person shall alter or destroy a register ticket, or counterfeit, transfer, or traffic in, for gain or otherwise, or attempt to counterfeit, transfer, or traffic in, for gain or otherwise, any register ticket issued or purporting to be issued pursuant to the provisions of this Act, he shall for every such offence be guilty of a misdemeanor; and any person becoming possessed of a register ticket, other than that legally issued to him, shall forthwith transmit the same to the Registrar of Seamen, and in case of default he shall for every such offence forfeit and pay a sum of twenty pounds.

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Penalty of 20
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transmitted.

XXII. And be it enacted, that if any seaman shall lose his register ticket he shall forthwith appear in person, and represent his case to the Registrar of Seamen in *London*, or the Collector or Comptroller of

When regist
ticket is lost.

7 and 8 Vict.
c. 112.

Penalty.

False answer a
misdemeanor.

Register
tickets of par-
ties dead.

Customs at any of the outports; and he shall truly answer all reasonable questions put to him by the said Registrar or officer of Customs; and if it appear that no fraud has been committed, and the loss was unavoidable, he shall be furnished with another register ticket; but if it appear that the seaman did not take due and reasonable care of his former ticket, or if he shall not give a satisfactory account of the same, he shall be liable to a penalty of not exceeding ten shillings and not less than two shillings, and shall not be entitled to any other ticket until such penalty shall be paid; and every person who shall apply for any ticket, and shall give a false answer to any reasonable question which may be put to him by the Registrar of Seamen, or his assistant, or by the Collector or Comptroller of Customs, with reference to the granting such ticket, shall be guilty of a misdemeanor.

XXIII. And be it enacted, that all District Registrars of Births, Deaths, and Marriages shall and they are hereby required to demand from the person registering the death of any seaman the register ticket of such seaman, and, if delivered to any such Registrar, he shall forthwith forward the same to the Registrar of Seamen; and no person, other than the said Registrar of Seamen, shall retain the ticket of a deceased seaman; and if any person shall retain any such ticket for more than twenty days after the death of any such seaman, or ten days after the arrival of the ship in the United Kingdom should the seaman die abroad, he shall be liable to a penalty of not exceeding five pounds in respect of every such register ticket so detained.

XXIV. And be it enacted, that a list shall be prepared from time to time by the Registrar of Seamen, setting forth the numbers of all the register tickets that have been cancelled by reason of the death of seamen or otherwise within the preceding six calendar months; and such lists shall be published half-yearly in the *London Gazette*, and shall also be transmitted by the said Registrar from time to time to the Collectors and Comptrollers of Customs, to be by them conspicuously exhibited in the Custom Houses and other stations of their respective ports, and copies of such lists shall be delivered to any master or owner on application; and every master or owner entering into an agreement with any seaman producing such cancelled ticket shall be liable to and incur a penalty of not exceeding five pounds; and every seaman tendering or delivering to a master a cancelled ticket, or any other ticket not legally issued to him, or falsely representing himself to be a foreigner, shall forfeit to the owner all wages which shall become due to him during the service, for which he shall agree or shall have agreed.

7 and 8 Vict.
c. 112.

List of cancelled tickets to be prepared by Registrar, and published half-yearly, and copies given thereof on application.

Penalty for using cancelled ticket, &c.

XXV. And be it enacted, that duplicates of all register tickets, and all papers and documents delivered or transmitted to and retained by the said Registrar, shall be by him recorded, preserved, and kept; and every copy of such duplicate tickets, papers, and documents, or any of them, certified by the said Registrar or his assistant to be a true copy, shall be admitted in evidence as fully as the original thereof; and every copy of a document and endorsement thereon, which may be delivered by any owner or master under the provisions of this Act, shall and

Papers and documents to be recorded.

Certified copies to be evidence.

7 and 8 Vict.
c. 112.

may be admitted in evidence against such owner and master, and each of them, as fully as the original of such document and endorsement.

Masters of
ships trading
abroad to de-
liver lists of
their crews on
their depar-
ture and re-
turn.

XXVI. And be it enacted, that the master of every ship belonging to any subject of Her Majesty, and bound to parts beyond the seas, except in the cases herein-after mentioned, shall, before he leaves his first port of departure from the United Kingdom, transmit or deliver, or cause to be transmitted or delivered, to the Collector and Comptroller of Customs at such port, a list, signed by himself, of the names of his crew (including apprentices), with the numbers of their register tickets, and the capacity in which they are serving on board, in the form set forth in schedule (G.) to this Act annexed; and if any subsequent change in his crew take place before finally leaving the United Kingdom the owner or master shall, upon such change taking place, apprise the Collector and Comptroller of the Customs at the port where it occurs, by transmitting an amended list in the same form; and the master or owner of every such ship shall, within forty-eight hours after the arrival of such ship at her final port of destination in the United Kingdom, transmit or deliver, or cause to be transmitted or delivered, to the Collector or Comptroller of the Customs at such port, an account or list, signed by himself, of all the seamen and others (including apprentices) who shall have belonged to the ship at any time during her absence from the United Kingdom; which account or list shall contain a full, true, and correct return under their respective heads of the several particulars expressed in the form set forth in the schedule annexed to

this Act, and marked (C.), with christian names and surnames of the master and all the crew at full length, and with the dates of the registry of the indentures of the apprentices, and the assignments respectively, and the port at which and the time when they were respectively registered, and also the numbers of the register tickets of every apprentice and seaman; and no vessel shall be cleared inwards by the Tide Surveyor or other officer until the master or owner shall produce a certificate from the Collector or Comptroller (which he is hereby required to give) to the effect that he has rendered such accounts or lists as aforesaid; and the Tide Waiters or other officers left on board shall be maintained at the expense of the master or owner until such accounts or lists shall be duly delivered as aforesaid.

7 and 8 Vict
c. 112.

Vessels not
be cleared i
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be rendered.

XXVII. And be it enacted, that within twenty-one days after the thirtieth day of *June* and the thirty-first day of *December* in each year the master or owner of every ship belonging to a subject of Her Majesty, of whatever tonnage, employed in fishing on the coasts of the United Kingdom or elsewhere, other than in the *South Sea*, *Greenland*, and *Newfoundland* fisheries, or in proceeding from one part of the United Kingdom to another, and every ship proceeding or making voyages to any of the islands of *Jersey*, *Guernsey*, *Alderney*, *Sark*, and *Man*, or to any port on the Continent of *Europe*, between the river *Elbe* inclusive and *Brest*, shall deliver or transmit, or cause to be delivered or transmitted, to the Collector or Comptroller of the Customs of any port of the United Kingdom, an account, signed by such master or owner, of any

Masters of
ships in the
home and for
ing trade to
return lists
half-yearly.

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c. 112.

voyage or voyages in which such ship shall have been engaged during the preceding half year, ending on the respective days above mentioned, and setting forth legibly and at full length the christian and surnames of the several persons (including the master and apprentices) who shall have belonged to the ship at any time during such periods respectively; which account shall be in the form and shall contain a true and correct return under their respective heads of the several particulars expressed in the schedule marked (D.) to this Act annexed, with the dates of the registry of the indentures of apprenticeship and assignments respectively, and the ports at which and the time when they were respectively registered, and the numbers of the register tickets of every seaman and apprentice; and no master or owner shall be entitled to or receive a transire or other Customs document necessary to enable him to conduct the business of his ship, after the expiration of the said twenty-one days, until he shall produce and show a certificate from such Collector or Comptroller (which he is hereby required to give), to the effect that he has delivered

Vessels not to receive transire until lists be delivered.

Owners of vessels unemployed, or not requiring Customs document, to notify same.

such an account; and in the case of ships of all descriptions which may be unemployed for six months, or which may be employed and not require a transire or other Customs document, the master or owner shall notify the same to such Collector or Comptroller within such twenty-one days, and in case of every default the master or owner shall be liable to a penalty of ten pounds; and all Collectors and Comptrollers of Customs of the ports to which the vessels belong shall transmit a list of all such ships, and of all ships of

Penalty for default.

every description registered or licensed, or whose registers or licences have been transferred or cancelled in their respective ports within each half year ending as aforesaid, to the said Registrar at the said office, on or before the first day of *February* and the first day of *August* in each year respectively.

XXVIII. And be it enacted, that in case any ship belonging to any subject of Her Majesty shall be lost, sold, or transferred, an account, containing a similar return as required in the several and respective cases before mentioned, made out up to the period of such loss, sale, or transfer, shall, if practicable, be delivered or transmitted by the master or owner at the time of the loss, sale, or transfer, to the Collector or Comptroller of the port to which the ship belongs, with all convenient speed, and in case such loss, sale, or transfer shall take place out of the United Kingdom, within twelve calendar months at furthest after the loss, sale, or transfer of the ship.

XXIX. And be it enacted, that all indentures, counterparts, assignments, lists, accounts, returns, papers, register tickets, and documents by this Act required to be delivered to the Collectors or Comptrollers as aforesaid shall be by them transmitted to the said Registrar for the purposes of this Act at the end of every week, unless otherwise specified in this Act; and every owner or master who shall refuse or neglect to transmit, deliver or cause to be delivered, any list, account, register ticket, or other document, as required by this Act, shall for every such refusal or neglect forfeit and pay the sum of ten pounds.

XXX. And be it enacted, that all agreements, or

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c. 112.

Return to be
made in case
of ship lost or
sold abroad.

Lists, &c. to be
transmitted to
the Registrar.

Penalty on the
owner or mas-
ter for neglect.

Lists, &c. in
the case of

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112.

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copies thereof, lists, returns, register tickets, and other documents, which under the provisions of this Act are required to be transmitted or delivered to the Collectors or Comptrollers of Customs of the several ports in the United Kingdom, shall, in the case of Pleasure Yachts, be transmitted or delivered by the masters or owners of such yachts direct to the Registrar of Seamen, and the owners or masters thereof shall be liable to the same penalties for default as herein provided in the cases of the masters or owners of other ships failing to transmit or deliver such documents to such Collectors and Comptrollers.

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aman dying
road.

XXXI. And be it enacted, that whenever any seaman, being abroad, shall die elsewhere than on board a ship belonging to any subject of Her Majesty, leaving any money or effects not on board his ship, it shall be lawful for Her Majesty's Consul or Vice-consul at or nearest to the place, and he is hereby required, to claim and take charge of all such money and effects, and to dispose of the said effects, if he shall so think fit, and after deducting all necessary and proper charges and expenses incurred in the collecting thereof, or by or on account of such seaman, to remit the balance, with a full account of such money or effects, to the President and Governors of the Corporation "for the Relief and Support of sick, maimed, and disabled Seamen, and of the Widows and Children of such as shall be killed, slain, or drowned in the Merchant Service," to be by such President and Governors paid over and disposed of, in the same manner and under the same regulations as are provided by an Act passed in the fifth year of His late

Majesty King *William* the Fourth, intituled *An Act* ^{7 and 8 Vict. c. 119.}
to amend an Act of the twentieth year of His Majesty
King George the Second, for the relief and support of ^{4 & 5 W. 4. c. 52.}
sick, maimed, and disabled Seamen, and the Widows
and Children of such as shall be killed, slain, or
drowned in the Merchant Service; and for other pur-
poses, with respect to the wages of seamen dying on
 board merchant ships; and in case any seaman dying
 abroad shall leave on board his ship any money,
 clothes, or other effects, or be entitled to any wages,
 the master of the said ship shall and he is hereby
 required to deposit the same, or the proceeds arising
 therefrom, with, and to pay such wages to, the Presi-
 dent and Governors aforesaid, to be by them disposed
 of in the same manner as is provided by the said Act
 with respect to the wages of seamen dying on board
 ship, and to transmit to the said President and Gover-
 nors at the same time a full account of such effects
 and wages; and on failure the master shall forfeit a
 sum not exceeding fifty pounds, in addition to being
 accountable for such money, clothes, effects, and
 wages; and in all cases of a seaman dying abroad the
 master shall, on his ship's return to the United King-
 dom, deliver up to the said President and Governors
 the register ticket of such deceased seaman, and the
 said President and Governors, on the receipt thereof,
 shall transmit the same to the Registrar of Seamen.

XXXII. And be it enacted, that it shall be lawful
 for the Overseers of the Poor, or other persons hav-
 ing the authority of Overseers of the Poor, in and for
 any district, union, parish, township, or place in the
 United Kingdom, and they are hereby empowered, to

Parish boys
 may be put on
 apprentices
 to the sea service

7 and 8 Vict.
c. 112.

bind by indenture, according to the form set forth in schedule (H.) to this Act annexed, and put out as an apprentice in the sea service to any of Her Majesty's subjects, being the owner of any ship registered or licensed in any port of the United Kingdom, any boy having attained the age of twelve years, and of sufficient health and strength, who or whose parent or parents is or are chargeable to or maintained by any such district, union, parish, township, or place, or who shall beg for alms therein, with his consent, but not otherwise; and until such boy shall attain the age of twenty-one years, or shall have served as apprentice seven years, or whichever shall first happen, such binding shall be effectual to all intents and purposes: Provided always, that where any such parish, township, or place separately maintaining its own poor shall be included in any union, or shall be under the management of a Board of Guardians, no such binding shall be valid unless the Guardians of such union, parish, or other place respectively shall previously have given their consent thereto, by causing their official seal to be affixed to the indenture, and the same to be signed by the presiding chairman of the board at any meeting, and the clerk or person acting as such at such meeting; and provided also, that every such binding shall be made in the presence of any such boy, and of two Justices of the Peace, who shall execute the indenture in testimony of their being satisfied that such boy hath consented so to be bound, and attained the age, and is of sufficient health and strength as required by this Act; and the age of every such boy shall be truly inserted in his indenture, and the age of every

such boy so inserted therein shall (in relation to the continuance of his service) be taken to be his true age, without any further proof thereof; and any certificate of baptism of such boy which may be required shall be given and attested by the officiating minister without fee or reward: Provided always, that no apprenticeship to the sea service, whether parish or otherwise, shall be binding after the apprentice shall have attained the age of twenty-one years; and that every indenture, together with his register ticket annexed thereto, shall be given up to such apprentice on his attaining such age, or at the expiration of his apprenticeship, whichever shall first happen, by the person to whom he shall be bound at the time, under a penalty of twenty pounds, to be paid by such person on default; but should any apprenticeship, parish or otherwise, expire during a voyage, and before the ship's arrival at her final port of destination in the United Kingdom, such apprenticeship shall, notwithstanding, continue until the return of the ship to her final port of destination in the United Kingdom; but after one calendar month from the expiration of such apprenticeship the apprentice shall be paid the same wages as an able-bodied seaman or ordinary seaman of the said ship, according to his qualification.

XXXIII. And be it enacted, that it shall be lawful for any master or person to whom any parish apprentice shall have been or shall be hereafter bound to a service on shore, according to the statutes for the time being relating to such apprentices, or for the executors or administrators, or, there being none such, for the widow of any deceased master, with the concur-

7 and 8 Vict.
c. 112.

No apprenticeship binding after apprenticeship shall have attained twenty-one.

Apprenticeships to continue until the return of the ship, and apprentice to be paid wages.

Parish apprentices may be turned over to the sea service.

7 and 8 Vict.
c. 112.

rence of two or more Justices of the Peace in and for the county, district, or place where such boy shall have been bound apprentice, to assign such boy, with his consent, to be given in the presence of such Justices, but not otherwise, as apprentice to any such owner as aforesaid, to be employed in the sea service during the period then remaining unexpired of his apprenticeship; and every such assignment shall be attested as next herein-after mentioned.

Indentures
may be as-
signed on the
death of the
master.

XXXIV. And be it enacted, that in the event of the bankruptcy, insolvency, or death of the master of any such parish apprentice to the sea service, it shall be lawful for such master, or the executors or administrators of such master, or, there being none such, for the widow of such deceased master, to assign the indenture of any such apprentice for the residue of the term then unexpired therein to any other owner of any such ship: Provided always, that such assignment, if executed within the limits of the Port of *London*, shall be attested by the said Registrar, his assistant, or one of his clerks, and if executed at any other port, by the Collector or Comptroller of the Customs of such Port.

Parish officers
to prepare in-
dentures.

XXXV. And be it enacted, that such Overseers, Guardians, or other persons as aforesaid shall cause the indenture of apprenticeship to be prepared and transmitted in triplicate; (that is to say,) two counterparts, besides the indenture, to the said Registrar, if the owner of the ship to whom such apprentice is to be bound shall be or reside within the limits of the Port of *London*, and if at any other port, to the Collector or Comptroller of the Customs at such port;

and shall cause each such poor boy to be conducted and conveyed to such port or place by a Constable or other trustworthy person, at the expense of the district, union, parish, township, or place; and when any such boy shall be so bound he shall be provided by the Guardians of the said union or parish as aforesaid, or, in case the said parish or place shall not be included in any union or governed by a Board of Guardians, by the Overseers, with a sufficient outfit of sea clothing, bedding, and similar necessities, to the value of five pounds, which said amount, together with the expenses to be incurred in the binding and conveyance of the said boy, shall be charged by such Guardians or Overseers respectively to the account of the parish or other place by whose Overseers the said boy shall be bound, and be allowed to them in their account; and the said indentures so entered into by the Overseers of any parish or other place as aforesaid may be sued upon in the name of the Overseers of the Poor of the said Parish or other Place for the time being, by their name of office; and no action commenced for the breach of any covenant therein contained, with the consent of the Vestry of such parish or place, shall abate by reason of death or any change of Overseers of such parish or place pending the same, but shall be proceeded in by the Overseers for the time being, who shall be entitled to charge the whole amount of the costs incurred in such action, and not recovered from the defendant therein, upon the Poor Rates collected by them, though part of such costs shall have been incurred by their predecessors.

7 and 8 Vict
c. 112.

Constable to
convey the
prentice.

Guardians &
overseers to
provide clothing, &c.

7 and 8 Vict.
c. 112.

How inden-
tures to be
attested.

XXXVI. And be it enacted, that such indentures shall be executed in the presence of and attested by the Constable or other person who shall conduct or convey such apprentice; and such indentures shall bear date respectively on the days on which they are executed; and such Constable or other person shall transmit one of the said counterparts, duly executed, to the Overseers, Guardians, or other persons aforesaid, one to the master, and another to the said Registrar.

Every ship, ex-
cept pleasure
yachts, to have
apprentices
according to
her tonnage:

XXXVII. And be it enacted, that the master or owner of every ship belonging to any subject of Her Majesty, and of the burden of eighty tons and upwards (except pleasure yachts), shall have on board at the time of her proceeding from any port of the United Kingdom, and at all times when absent from the United Kingdom, or navigating the seas, one apprentice, or more, in the following proportion to the number of tons of his ship's admeasurement, according to the certificate of registry; (that is to say,) for every ship of eighty tons and under two hundred tons, one apprentice at the least; for every ship of two hundred tons and under four hundred tons, two apprentices at the least; for every ship of four hundred tons and under five hundred tons, three apprentices at the least; for every ship of five hundred tons and under seven hundred tons, four apprentices at the least; and every ship of seven hundred tons and upwards, five apprentices at the least; all of whom, at the period of their being bound respectively, shall be subjects of Her Majesty, and above twelve and under seventeen years of age, and be duly bound for the

To be subjects
of Her Ma-
jesty:

Their age and
term of ap-
prenticeship.

term of four years at the least; and if any such master or owner shall neglect to have on board his ship the number of apprentices as hereby required, together with their respective registered indentures, assignments, and register tickets, he shall for every such offence forfeit and pay the sum of ten pounds in respect of each apprentice, indenture, assignment, or register ticket so wanting or deficient.

7 and 8 Vict.
c. 112.

Penalty for
deficiency of
apprentices,
&c.

XXXVIII. And be it enacted, that in case any indentures of apprenticeship of any description shall be cancelled, or any apprentice, parish or otherwise, shall die on shore or desert, or by reason of the vessel of the master not having made a voyage for six months shall not be reported in either of the said lists, such cancellation, death, desertion, or non-employment shall forthwith be notified in writing by the master of the apprentice to the said Registrar, if the ship on board which the apprentice was bound to serve shall belong to the Port of *London*, or otherwise to the Collector or Comptroller of the port to which the said ship shall belong; and for every default the said master shall be liable to a penalty of ten pounds; and the Collector or Comptroller, if the notification be made to him, shall transmit the same to the said Registrar within one week from the receipt thereof; and no cancelling of any indenture of apprenticeship of any description shall be valid or effectual without the mutual consent of the parties, or without the consent or in the absence of the Registrar of Seamen in *London*, or of the Collector or Comptroller of Customs of the port in which such cancellation shall take place, or, in case of bindings by the Overseers, with-

The cancelling
of indentures,
and death or
desertion of
apprentices, to
be notified.

Penalty.

Consents ne-
cessary in
cancelling in-
dentures.

7 and 8 Vict.
c. 112.

out the additional consent of the Guardians of the union or parish whose consent was given to the said binding, to be testified by a copy of a minute of the Board forwarded by the clerk to the said Guardians.

Indentures
and assign-
ments of
parish appren-
tices to be
registered.

XXXIX. And be it enacted, that the said Registrar in *London*, and the Collector and Comptroller of the Customs at each other port, shall, in a book to be kept for that purpose, cause to be entered from time to time all such indentures and assignments of parish apprentices as aforesaid, specifying therein the dates thereof, the names and ages of the apprentices, the parishes or places from whence they are sent, the names and residences of their masters to whom they are bound or assigned, and the names, ports, and burden of the respective ships to which such masters belong, and shall make and subscribe on each indenture and assignment an endorsement, purporting that the same had been duly registered pursuant to this Act; and such Registrar, Collectors, and Comptrollers respectively shall require the personal attendance of every such apprentice at the time of registering his indenture or assignment thereof; and every such Collector and Comptroller shall also, at the end of each week, transmit a list of the indentures and assignments and cancellations so registered by him within the week, containing all the particulars aforesaid, to the said Registrar.

Apprentices to
appear perso-
nally when
indentures or
assignments
registered.

Indentures
and assign-
ments of other
apprentices to
be registered.

XL. And be it enacted, that in every case of a person (other than such parish apprentice as aforesaid) binding himself apprentice to the sea service the indentures to be executed on such occasion shall be in duplicate, in the form set forth in schedule (I.) to this

Act annexed, and a counterpart shall be delivered to the said Registrar, if the master shall be or reside within the Port of *London*, or if at any other port, to the Collector or Comptroller of such port; and the indentures shall be registered in a book to be kept for that purpose by the said Registrar, Collectors, and Comptrollers respectively, in which book shall be expressed the dates of the several indentures, the names and ages of the apprentices, the names and residence of their masters, and (if known) the names, port, and burden of the several ships on board which they are respectively to serve; and such Registrar, Collectors, and Comptrollers respectively shall require the personal appearance of every such apprentice at the time of registering his indenture or the assignment thereof, and shall endorse and subscribe upon each indenture a certificate purporting that the same hath been duly registered pursuant to this Act; and the said Collectors and Comptrollers shall also at the end of each week transmit a list of the indentures and assignments registered by them within the week, containing all the particulars aforesaid, together with the said counterparts, to the said Registrar, for the purposes of this Act; and that it shall be lawful for the master of such apprentice, or in case of his death his executor or administrator, with the consent of the apprentice if of the age of seventeen years or upwards, and if under that age with the consent of his parent or guardian, to assign or transfer the indenture of any such apprentice to any other master or owner of any registered ship; and all such apprentices may during the term for which they shall be bound be employed in any ship

7 and 8 Vict.
c. 112.

As to assignment of indentures of apprentices.

7 and 8 Vict.
c. 112.

Assignments
to be regis-
tered.

of which the master for the time being of any such apprentice may be the master or owner: Provided always, that every such assignment shall be registered and endorsed by the said Registrar, or by the Collector or Comptroller of the Customs at the port where the master shall be, or to which his ship shall belong; and the said Collector or Comptroller shall notify the same to the said Registrar, and transmit an exact copy of the said endorsement to the said Registrar.

Apprentices
exempted from
contributions.

XLII. And be it enacted, that no apprentice bound or assigned pursuant to this Act, nor any master or owner in respect of such apprentice, shall be liable to any payment or contribution to or towards any hospital or institution; and that all agreements, attested copies, indentures, assignments, counterparts, and tickets, made, signed, or executed in compliance with or under the provisions of this Act, shall be wholly exempt from stamp duty.

Documents
exempted from
duty.

Penalty on
masters neg-
lecting to
register, &c.
indentures,

XLII. And be it enacted, that if any master or owner to whom any apprentice to the sea service shall be bound or assigned shall neglect to deliver a counterpart, and cause the indenture or the assignment (as the case may be) to be registered as required by this Act, so far as depends on such master or owner, within ten days after the binding or assignment, every such master or owner shall for every such neglect forfeit and pay the sum of ten pounds; and if any such master or the master of any ship shall, after the ship shall have proceeded on the voyage upon which such ship may be bound, permit any apprentice to quit his service or the service of the ship, except for the purpose of entering into Her Majesty's naval service,

and for suffer-
ing appren-
tices to quit
their service.

every such master shall for every such offence forfeit 7 and 8 Vict. and pay the sum of twenty pounds. C. 112.

XLIII. And be it enacted, that any Justice of the Peace residing at or near to any port to which any ship as aforesaid, having on board thereof any apprentice, shall at any time arrive, shall have full power and authority to inquire into and examine, hear and determine, all claims of apprentices upon their masters under their indentures, and all complaints of hard or ill usage exercised by their respective masters towards any such apprentices, or of misbehaviour on the part of any such apprentices, and to proceed thereupon as one or more Justice or Justices of the Peace is or are empowered by law to do in other cases between masters and apprentices; and if the master of any ship shall not send on shore, in the charge of the mate or other trustworthy person, any apprentice desirous of complaining to a Justice of the Peace, so soon as the service of the ship will permit, he shall for every such default forfeit and pay the sum of ten pounds. Justices to determine complaints.

XLIV. And whereas by an Act passed in the ninth year of the reign of His late Majesty King *George* the Fourth, for consolidating and amending the statutes in *England* relative to offences against the person, a summary jurisdiction is provided for the punishment of persons guilty of common assaults and batteries: And whereas it is expedient that the provisions of the last-mentioned Act should extend to similar offences committed on board ships belonging to subjects of Her Majesty: Be it therefore enacted, that in the case of any assault or battery committed on board any ship Common assaults may be summarily punished by two Justices

7 and 8 Vict.
c. 112.

belonging to any subject of Her Majesty, in any part of the world, it shall be lawful for any two Justices of the Peace in any part of Her Majesty's dominions, or the territories under the government of the *East India* Company, residing at or near any port or place at which the said ship may arrive or touch, upon complaint of the party aggrieved, to hear and determine any such complaint, and to proceed and make such adjudication thereon as by the said Act any two Justices are empowered to do in the cases of assaults and batteries in *England*; and the fine or forfeiture to be imposed in any such case shall be payable to the Seamen's Hospital Society: Provided always, that such complaint shall be made and prosecuted within three months after such alleged assault or battery, or within three months after the arrival of the ship at her final port of destination in the United Kingdom, or within three months after the respective parties shall be within the jurisdiction of such Justices as aforesaid.

Masters entitled to receive the wages, &c. of apprentices entering into the navy.

XLV. And be it enacted, that no apprentice to the sea service shall be at liberty to enter into the naval service of Her Majesty during the period of his apprenticeship without the consent of his master; but if, nevertheless, he shall voluntarily enter into such naval service of Her Majesty, and shall be allowed by his master to continue therein, such master, in case he shall give notice to the Secretary of the Admiralty of his consent to his apprentice remaining in Her Majesty's said service during the residue of the term of his apprenticeship, shall, upon the production of the indenture and assignment (if any), if duly regis-

tered, and having the register ticket attached, - be entitled to receive to his own use any balance of wages and prize money that may become due and payable to any such apprentice until the expiration of his apprenticeship.

7 and 8 Vict.
c. 112.

XLVI. And whereas great mischiefs have arisen from masters of merchant ships leaving seamen in foreign parts, who have been thus reduced to distress, and thereby tempted to become pirates or otherwise misconduct themselves, and it is expedient to amend and enlarge the law in this behalf; be it therefore enacted, that if any master of a ship belonging to any subject of Her Majesty shall discharge any person belonging to his ship or crew at any of Her Majesty's colonies or plantations, without the previous sanction in writing (to be endorsed on the agreement) of the Governor or other officer holding the chief authority there, or of the Secretary or other officer duly appointed by the government there in that behalf, or in the absence of such functionaries then of the Chief Officer of Customs resident at or near such port or place, or shall discharge any such person at any other place abroad without the like previous sanction, to be so endorsed on the agreement by Her Majesty's Minister, Consul, or Vice-consul there, or in the absence of any such functionary then of two respectable merchants resident there, such master shall be guilty of a misdemeanor; or if any master of any such ship shall abandon or leave behind at any such colony or plantation any person belonging to his ship or crew, on the plea or pretence of unfitness or inability to proceed upon the voyage, or of desertion or disappear-

No seaman to be discharged abroad, nor to be abandoned, or left behind, without sanction of Consul, &c.

7 and 8 Vict.
c. 112.

ance from the ship, without a previous certificate in writing (to be endorsed on the agreement) of the Governor, Secretary, or other officer as aforesaid, or in the absence of such functionary then of the Chief Officer of Customs resident at or near such port or place, certifying such unfitness, inability, desertion, or disappearance, or shall abandon or leave behind any person belonging to his ship or crew at any other place abroad, on shore or at sea, upon such plea or pretence, without the like previous certificate of Her Majesty's Minister, Consul, or Vice-consul there, or in the absence of any such functionary then of two respectable merchants, if there be any such at or within a reasonable distance from the place where the ship shall then be, such master shall be guilty of a misdemeanor; or if any master of any such ship, in case any person belonging to his ship or crew shall desert from the said ship at any place abroad, shall neglect to notify the same in writing to one of such functionaries as aforesaid, if there be any such resident at or near the place, and in their absence, if it be out of Her Majesty's dominions, then to two respectable merchants, if there be such at or near the place, within twenty-four hours of such desertion, such master shall be guilty of a misdemeanor; and the said functionaries are hereby authorized and required, and the said merchants are authorized, to examine into the grounds of such proposed discharge, or into the plea or pretence of such unfitness, inability, desertion, or disappearance as aforesaid, in a summary way, upon oath (which oath they are hereby respectively authorized to administer), and to grant or refuse such sanction or

certificate according to the circumstances, and as it shall appear to them to be just.

7 and 8 Vict
c. 112.

XLVII. And be it enacted, that if the master of any ship belonging to any of Her Majesty's subjects, or the mate or other officer of such ship, shall wrongfully force on shore and leave behind, or shall otherwise wilfully and wrongfully leave behind on shore or at sea, in or out of Her Majesty's dominions, any person belonging to his ship or crew, before the completion of the voyage for which such person was engaged, or the return of the ship to the United Kingdom, such master, mate, or other officer shall be guilty of a misdemeanor; and every misdemeanor mentioned or created by this Act shall and may be prosecuted by information at the suit of Her Majesty's Attorney General, or by indictment or other legal proceeding in any Court having Criminal Jurisdiction in Her Majesty's dominions at home or abroad; and the offence may be laid and charged in the said information, indictment, or other legal proceeding to have been committed in the county or place where the offender shall happen to be, who, being convicted thereof, shall be liable to fine or imprisonment, or both, as to the Court before whom he is tried shall seem meet; and every Court is hereby authorized to issue a commission or commissions for the examination of any witness or witnesses who may be absent or out of the jurisdiction of the Court; and at the trial the depositions taken under such commission or commissions, if such witness or witnesses shall be then absent, shall be received in evidence.

Forcing sea-
men on shore
&c. a misde-
meanor.

Where misde-
meanors may
be prosecute

7 and 8 Vict.
c. 112.

If any of the
crew are left
behind, the
proof of sanc-
tion or autho-
rity to be upon
the master.

XLVIII. And be it enacted, that if any master shall, contrary to the provisions of this Act, discharge, abandon, or leave behind any seaman or other person belonging to the ship or crew, with or without his consent, it shall be incumbent on such master, in any information, indictment, or other proceeding against him, to produce or prove such sanction or respective certificate as aforesaid, or prove the impracticability of obtaining such certificate.

Seamen, when
allowed to be
left behind, to
be paid their
wages.

XLIX. And be it enacted, that every such master who shall leave any seaman or other person as aforesaid on shore at any such colony or plantation or place abroad, under a certificate of his not being in a condition to proceed on the voyage, shall deliver to one of the said functionaries, or if there be none such to any two respectable merchants there, or if there be but one then to such one merchant, a just and true account of the wages due to such person, and pay the same either in money or by a bill drawn upon the owner; and if by bill, then such functionaries or merchants are respectively authorized and required, by endorsement on such bill, to certify that the same is drawn for money due on account of seamen's wages, or to that effect; and any master who shall refuse or neglect to deliver a just and true account of such wages, or to pay the amount thereof in money or by bill as aforesaid, shall for every such offence or default forfeit and pay the sum of ten pounds, and every master who shall deliver a false account of such wages shall for every such offence forfeit and pay the sum of twenty pounds.

L. Provided always, and be it enacted, that nothing in this Act or in any agreement contained shall prevent any seaman or person belonging to any ship or vessel whatever from entering or being received into the naval service of Her Majesty, nor shall any such entry be deemed a desertion from the ship or vessel, nor shall such seaman or other person thereby incur any penalty or forfeiture whatever, either of wages, clothes, or effects, or other matter or thing; and no master or owner shall insert or introduce, or permit to be inserted or introduced, into any articles or agreement, any clause, engagement, or stipulation whereby any seaman or other person shall or may incur any forfeiture or be exposed to loss in case he shall enter into Her Majesty's naval service; and if inserted, the clause, engagement, or stipulation shall be void, and the offender shall thereby incur a penalty of twenty pounds.

7 an 8 Vict.
c. 112.

Act not to extend to prevent seamen from entering into the navy.

LI. And be it enacted, that when any seaman shall quit any such ship or vessel as aforesaid, in order to enter into Her Majesty's Naval Service, and shall thereupon be actually received into such service, not having previously committed any act amounting to and treated by the master as desertion, he shall be entitled immediately upon such entry to have his register ticket and all his clothes and effects on board such ship or vessel delivered to him, and to receive from the master the proportionate amount of his wages up to the period of such entry, to be paid either in money or by a bill on the owner; all which register ticket, clothes, effects, money, or bill such master is hereby required to deliver and pay to him accordingly,

Upon entry of seamen into the navy from any ships they shall be entitled to the immediate delivery up of their clothes, register tickets, and payment of any wages that may be due.

and s Vict.
112.

under a penalty of twenty pounds for any refusal or neglect, to be recovered with full costs of suit by such seaman; but in case the master shall have no means of ascertaining the balance, he shall make out and deliver to such seaman a certificate of the period of his service, and the rate of wages he is entitled to, producing at the same time to the commanding or other officer of Her Majesty's vessel the agreement with the seaman; and every such master, upon the delivery of such register ticket, clothes, and effects, and the settlement of such wages in manner hereinmentioned, shall receive from the officer in command of the vessel into which the seaman shall have entered a certificate of such entry, endorsed on the agreement, and signed by the said officer, which such officer is hereby required to give.

power for Her
Majesty to sue
the amount
advanced for
a relief of
amen left
road.

LII. And be it enacted, that if any person shall be discharged, or wilfully and wrongfully left behind or abandoned, at any place beyond seas in or out of Her Majesty's dominions, by any master, mate, or other officer, contrary to the provisions of this Act, and shall become distressed, and be relieved under the provisions of an Act passed in the eleventh year of the reign of His late Majesty King *George* the Fourth, for amending and consolidating the laws relating to the pay of the Royal Navy, or any Act hereafter to be passed for that purpose, or if any person shall, as principal or agent, engage any subject of Her Majesty to serve in any vessel belonging to any foreign power, or to the subject of any foreign state, and such last-mentioned person shall become distressed and be relieved as aforesaid, then, in addition to the wages due from such

master or owner or person making such engagement, ^{7 and 8 Vict.} and the penalties to which such master may be liable, ^{c. 112.}
Her Majesty shall be entitled to sue such master or the owner of the ship, or any person who shall have made such engagement as aforesaid, at the discretion of the Commissioners for executing the office of Lord High Admiral of the United Kingdom, for all the charges and expenses which shall have been incurred in or for the subsistence, necessary clothing, and conveyance home or burial (should he die abroad or before reaching home) of any such seaman or person relieved as aforesaid, as money paid to the use of such master or owner or other person, who shall have made such engagement as aforesaid, and recover the same, together with full costs of the suit, in the same manner as other debts due to Her Majesty are recoverable; and in any proceeding for that purpose proof of the account furnished to the said Commissioners by any such functionaries, or by such two merchants, or one merchant, according to the case, as provided by the said Act of the eleventh year of King *George* the Fourth, shall, together with the proof of payment by the said Commissioners, or by the Paymaster General, of the charges incurred on account of any such person, be sufficient evidence that such person was relieved and conveyed home or buried at Her Majesty's expense; and the court in which any proceeding for the recovery of the said money shall be instituted is hereby authorized to issue a commission or commissions for the examination of witnesses, and the depositions taken under such commission or commissions shall be used as evidence.

7 and 8 Vict.
c. 112.

Ship's agree-
ment, inden-
tures, and
assignments
of appren-
ticeship and
register tick-
ets, on arrival
at a foreign
port, to be
deposited with
the Consul,
and at a Co-
lony with the
officers of Cus-
toms.

Consuls to
make endorse-
ments on
agreements.

LIII. And be it enacted, that if any ship belonging to a subject of Her Majesty (except packets for passengers in the course of their voyage) shall arrive at any foreign port where there shall be a *British* Consul or Vice Consul, or at any port in a *British* Colony, and remain thereat for forty-eight hours, the master shall, within forty-eight hours of the ship's arrival, deliver or cause to be delivered to such Consul or Vice Consul at such foreign port, or to the Collector or Comptroller of the Customs at such port of a *British* colony, the agreement or agreements before mentioned, together with an account at the foot of such agreement of all apprentices on board, setting forth their Christian and surnames at full length, the dates of the registry of their indentures and assignments respectively, and the ports at which and the time when they were registered, and also all indentures and assignments of apprenticeships, and the register tickets of all the crew who shall be subjects of Her Majesty, the whole to be kept by such Consul or Vice Consul, Collector or Comptroller, as the case may be, during the ship's stay in such port, and (excepting the register tickets of deserters, which are to be transmitted by such functionaries to the Registrar of Seamen,) to be returned to the master a reasonable time before his departure, with a certificate endorsed on such agreements respectively, stating when the same were respectively delivered and returned, without any fee or charge being made for the same; and in case it shall appear that the required number of apprentices are not on board, or that the required forms or existing laws have been in any respect neglected or trans-

gressed, such Consul or Vice Consul, Collector or Comptroller, shall make an endorsement to that effect on such agreement, and forthwith transmit a copy of such endorsement, with the fullest information he can collect regarding such neglect or transgression, to the said Registrar; and if any master shall neglect to deliver any agreement, indenture, assignment or register ticket, or such account as aforesaid, he shall for every such neglect or default forfeit and pay the sum of twenty pounds; or if any master shall deliver any false or incorrect account, he shall for every such offence forfeit and pay the sum of thirty pounds.

7 and 8 Vict.
c. 112.

Penalty on
masters for
neglect, &c.

LIV. And be it enacted, that no seaman shall be shipped at any such foreign port by any such master, except with the sanction of such Consul or Vice Consul, to be endorsed or certified on the agreement, under a penalty of twenty pounds, to be forfeited by the master for every seaman so shipped.

No seaman
be shipped
a foreign po
without the
sanction of t
Consul.

LV. And be it enacted, that the master of every ship belonging to any subject of Her Majesty shall and he is hereby required to produce and show the Log-book, muster roll of the ship, and the agreement or agreements with his crew, their register tickets, and the indentures of his apprentices, and the assignments thereof, and a list of all the passengers and persons on board, to the captain, commander, or other commissioned officer of any of Her Majesty's ships or vessels requiring the production and sight thereof; and that it shall be lawful for any such officer in Her Majesty's Naval Service to muster the crew (including apprentices) of any ship belonging to any such subject, in order to be satisfied that the provisions of this Act,

Masters to
produce
agreement,
&c. to the
officers of
Queen's ship

7 and 8 Vict.
c. 112.

Penalty.

and every other Act by which the crews of such ships as aforesaid are regulated, and the laws relating to navigation, have been duly kept and complied with; and if any master shall, upon being required so to do by any such officer, neglect or refuse to produce such Log-book, muster roll, or agreement, register tickets, indentures, and assignments, and lists of passengers and persons, or any of them, or shall obstruct any officer in the execution of his duty in mustering the said crew, or shall produce any false Log-book, muster roll, or list, he shall for every such offence forfeit and pay the sum of twenty pounds.

Consuls, Registrar, and officers of Customs empowered to require production of the agreement, muster roll, &c.

LVI. And be it enacted, that for the better carrying into effect the purposes of this Act it shall be lawful for Her Majesty's Consuls and Vice Consuls in foreign ports, and for the said Registrar and his Assistant, and also for the respective chief officers of the Customs at the several ports of the United Kingdom and of the *British* possessions abroad, to demand from the master of every ship belonging to a subject of Her Majesty the production of the Log-book, muster roll of the ship, and such agreements, register tickets, indentures, and assignments as aforesaid, and a list of passengers and persons on board, and to muster the crew (including apprentices) of such ship, and to summon the master to appear before them, and give any explanation they may respectively require regarding the said crew, ship, or documents, for the purpose of ascertaining whether the provisions of this Act, and every other Act by which the crews of such ships as aforesaid are regulated, and the laws relating to navigation, have been kept and complied with, and to take copies of all

or any of such documents; and if any such master, on such demand being made, shall refuse to produce such Log-book, muster roll, agreements, register tickets, indentures, and assignments, and list of passengers and persons, or refuse to allow copies to be taken, or shall refuse to permit his crew to be so mustered, or shall refuse to appear and give such explanation as aforesaid, or shall wilfully deceive or mislead the person before whom he shall so appear, he shall for every such neglect, refusal, or offence forfeit and pay the sum of twenty pounds.

7 and 8 Vict
c. 112.

Penalty on
master re-
fusing to pr
duce.

LVII. And be it enacted, that it shall and may be lawful for any Consul or Vice Consul of Her Majesty, and for any Collector or Comptroller of the Customs, upon complaint made by any three or more of the crew, to survey and examine, or cause to be surveyed and examined, the provisions, water, and medicines put or supplied on board any ship for the use and consumption of the crew; and if on such survey and examination it shall be found that such provisions, water, or medicines are of a bad quality, or unfit for use, or not appropriate, or there shall not appear to be a sufficient quantity thereof, the surveying officer shall signify the same in writing to the master of the ship; and if such master shall not thereupon provide other fit and proper provisions, water, or medicines in lieu of any which may be signified by the said surveying officer to be of a bad quality, or unfit for use, or not appropriate, or if any such master shall not thereupon procure the requisite quantity of provisions, water, and medicines, or shall use any provisions, water, or medicines which shall have been signified by the

Survey of pr
visions, &c.

If provisions
are found in
sufficient, &c.

7 and 8 Vict.
c. 112.

surveying officer to be of a bad quality, or unfit for use, or not appropriate, he shall in each and every of such cases be guilty of a misdemeanor.

As to offences
committed at
foreign ports.

LVIII. And be it enacted, that all offences against the property or person of any subject of Her Majesty, or of any foreigner, which shall be committed in or at any port or place, either ashore or afloat, out of the dominions of Her Majesty, by the master and crew (including apprentices), or any or either of them, belonging to any ship subject to any of the provisions of this Act, or who within three months before the committal of the offence shall have been the master thereof, or shall have formed part of any such crew, shall be and they are hereby declared to be offences of the same nature respectively, and to be liable to the same punishments respectively, as if they had been committed on the high seas and other places within the jurisdiction of the Admiralty of *England*, and shall be inquired of, heard, tried, and determined and adjudged in the same manner as if such offences had been committed within such jurisdiction; and when any trial for such offences, or for any misdemeanor against the provisions of this Act, shall take place before any Justices or Judges of Oyer and Terminer and Gaol Delivery, it shall be lawful for the Court to order and direct the payment of the costs and expenses of the prosecution, as in the case of costs and expenses of prosecutions for offences committed within the jurisdiction of the Admiralty of *England*.

For the safe
custody and
conveyance of
offenders to
England.

LIX. And be it enacted, that whenever any complaint shall be made to any of Her Majesty's Consuls or Vice Consuls of any such offence or of any offence

having been committed at sea by the master and crew (including apprentices), or any or either of them, belonging to any ship subject to any of the provisions of this Act, it shall be lawful for any such Consul or Vice Consul to inquire into the case, upon oath, and at his discretion to cause any offender to be placed under all necessary restraint, so far as it may be in his power, so that he may be sent and conveyed in safe custody to *England* as soon as practicable, in any vessel of Her Majesty, or of any of Her subjects, to be there proceeded against according to law; and the costs and charges of imprisoning any such offender, and of conveying him and the witnesses to *England*, if not conveyed in the ship to which they respectively belong, shall be considered and deemed as part of the costs of the prosecution, or be paid as costs incurred on account of seafaring subjects of the United Kingdom left in distress in foreign parts; and all depositions taken before any Consul or Vice Consul abroad, and certified under his official seal to be the depositions, and that they were taken in the presence of the party accused, shall be admitted in evidence in all courts having criminal jurisdiction, and otherwise, in like manner as depositions taken before any Justice of the Peace in *England* now are or may be; and the register ticket of every offender shall be delivered up to Her Majesty's Consul or Vice Consul, as the case may be, and be transmitted by him to the Registrar of Seamen.

LX. And be it enacted, that it shall be lawful for any Consul or Vice Consul to order a passage to *England* for any such offender or offenders under

7 and 8 Vict.
c. 112.

As to the conveyance of offenders and witnesses to England.

7 and 8 Vict.
c. 112.

necessary restraint, and also for the witnesses ; and the master or other person having the charge of any ship or vessel belonging to any subject of Her Majesty bound for *England* shall and he is hereby required to receive and afford a passage and subsistence during the voyage to any such offender or offenders and witnesses, not exceeding the rate of one offender or two witnesses for every one hundred tons of his ship's burden ; and on his ship's arrival in *England* the master of any vessel belonging to a subject of Her Majesty shall take or cause to be taken the offender or offenders before a Justice of the Peace, who shall deal with the matter as in cases of offences committed upon the high seas ; and in case the master or other person having the charge of any ship or vessel belonging to any subject of Her Majesty, when required by the Consul or Vice Consul to receive and afford a passage to any offender or witness, shall not receive and afford such passage, or shall not take or cause to be taken the offender or offenders before a Justice of the Peace as aforesaid, every such master shall be liable to a penalty of fifty pounds ; and the seaman, if acquitted, shall receive his register ticket again upon due application to the Registrar of Seamen.

As to ships
belonging to
British colonies.

LXI. And be it enacted, that this Act shall not extend or apply to any ship registered in or belonging to any *British* colony having a Legislative Assembly, or to the crew of any such ship, while such ship shall be within the precincts of such colony ; but every ship belonging to any colony or possession of Her Majesty, when proceeding from one part of the United Kingdom to another, or from the United Kingdom to the islands

of *Jersey, Guernsey, Alderney, Sark, or Man*, or from any port in the United Kingdom to any port or possession of any foreign power or country, or to any colony to which the ship shall not belong, shall be held to come within the provisions of this Act; and this Act is hereby extended to the same; and the owner, master, and crew, including apprentices, of such ship so trading as aforesaid, shall be and are hereby declared liable to the provisions of this Act as fully as the owner, master, and crew of any *British* registered ship; and this Act and the provisions thereof (except so far as the same relate to agreements, register tickets, and having apprentices,) shall also extend and apply to ships belonging to all of Her Majesty's colonies and possessions abroad, wherever otherwise proceeding or trading, and to the owners, masters, and crews of such ships, when any such ship shall be beyond the precincts of the colony or possession to which she shall belong; and all certificates and sanctions required by this Act to be endorsed on agreements shall, in the case of ships last referred to, be otherwise given in writing where no written agreement exists.

LXII. And be it enacted, that all penalties and forfeitures imposed by this Act, and for the recovery whereof no specific mode is herein-before provided, shall and may be recovered, with costs, either in any of Her Majesty's Courts of Record at *Westminster, Edinburgh, or Dublin*, or in the colonies or territories under the government of the *East India Company*, at the suit of Her Majesty's law officers respectively, or at the suit of any person, by information and sum-

7 and 8 Vict.
c. 112.

Recovery of
penalties.

7 and 8 Vict.
c. 112.

mary proceeding before any Justice or Justices of the Peace in and for any part of Her Majesty's dominions, or the territories under the government of the *East India* Company, where or near to the place where the offence shall be committed or the offender shall be; and if proceedings for the recovery of any forfeiture or penalty imposed by this Act, or for the recovery of any debt due to Her Majesty, be commenced in any of Her Majesty's Courts, the Court in which such proceedings shall be instituted is hereby authorized to issue a commission or commissions in or out of Her Majesty's dominions for the examination of witnesses, and the depositions taken thereunder shall be used and admitted in evidence; and in case of a summary conviction under this Act, and the sum imposed as a penalty by the Justice or Justices shall not be paid, either immediately after the conviction or within such period as the Justice or Justices shall at the time of the conviction appoint, it shall be lawful for the convicting Justice or Justices to commit the offender to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, according to the discretion of the Justice or Justices, for any term not exceeding six calendar months, the commitment to be determinable upon payment of the amount and costs; and all penalties and forfeitures mentioned in this Act, for which no specific application is herein-before provided, shall, when recovered, be paid and applied in manner following; (that is to say,) so much thereof as the Court or the convicting Justice or Justices shall determine, but not exceeding one moiety, shall be paid to the

Application of
forfeitures.

informer or person upon whose discovery or information the same shall be recovered, and the residue shall be paid to the Seamen's Hospital Society: Provided always, that it shall be lawful for the Court before which, or the Justice or Justices before whom, any proceedings shall be instituted for the recovery of any pecuniary penalty imposed by this Act, to mitigate or reduce such penalty as to such Court or Justices respectively shall appear just and reasonable; but no such penalty shall be reduced to less than one-third of its original amount; and it shall be lawful, in the discretion of the said Court, or of the said Justice or Justices hearing the complaint, to order such costs against the informing or complaining party failing to prove the charge as the said Court or Justice or Justices may deem fit, and such costs shall be recoverable in the same manner as penalties under this Act, and be paid as such Court or Justice or Justices shall direct: Provided also, that all proceedings so to be instituted shall be commenced within two years next after the commission of the offence, if the same shall have been committed at or beyond the *Cape of Good Hope* or *Cape Horn*, or within one year if committed elsewhere, or within two calendar months after the return of the offender and the complaining party to the United Kingdom.

LXIII. And to avoid doubts in the construction of this Act, be it enacted, that every person having the charge or command of any ship belonging to any subject of Her Majesty shall, within the meaning and for the purposes of this Act, be deemed and taken to be the master of such ship; and that every person

7 and 8 Vict.
c. 112.

Definition of
the terms
"master,"
"seaman,"
"ship," and
"owner."

7 and 8 Vict.
c. 112. (apprentices excepted) who shall be employed or engaged to serve in any capacity on board the same shall be deemed and taken to be a seaman, within the meaning and for the purposes of this Act; and that the term "ship" shall be taken and understood to comprehend every description of vessel navigating on any sea or channel, or waters outside the mouths of rivers, and also every vessel passing beyond the precincts of a port; and that the term "owner" shall be taken and understood to comprehend all the several persons, if more than one, to whom the ship shall belong.

As to relief to persons from Asia and Africa becoming distressed in the United Kingdom.

LXIV. And be it enacted, that if any person, being a Malay, Lascar, or native of the territories under the government of the *East India* Company, or if any *Asiatic* or *African* seaman, having been brought to the United Kingdom on board any ship, shall be found or be in the United Kingdom in distress for want of food, clothing, or other necessaries, it shall and may be lawful for the Commissioners for executing the office of Lord High Admiral of the United Kingdom, at their discretion, to supply necessary and reasonable relief to every such person and seaman, and to maintain him until he shall be sent on board some ship for the purpose of being conveyed to or near to the port from which he was shipped, and also to pay, defray, and advance the money necessary to procure every such person and seaman a proper and sufficient passage to such port; and all such sum or sums of money as shall be paid and advanced by or by order of the said Commissioners for or on account of such relief, maintenance, and passage shall be and

become a debt due to Her Majesty, and be recover- 7 and 8 Vict.
 able as such, with full costs of suit, in the Courts of c. 112.
 Law either in Her Majesty's dominions or in the terri-
 tories under the government of the *East India* Com-
 pany, from the owner and master, or either of them,
 of the ship on board whereof such person or seaman
 shall have been brought from *Asia* or *Africa*; but
 nothing herein contained shall repeal or annul any
 other Act or Acts now in force for the relief and con-
 veyance home of any *Asiatic* or *African* person or
 seaman.

LXV. And be it enacted, that this Act may be ^{Act may be}
 amended or repealed by any Act to be passed during ^{amended this}
 the present session of Parliament. ^{session.}

SCHEDULE (A.)

An Agreement made pursuant to the Directions of an Act of Parliament passed in the Year of the Reign of between the Master of the ship of the Port of and of the Burden of Tons, and the several Persons whose names are subscribed hereto.

It is agreed by and on the part of the said persons, and they severally hereby engage to serve on board the said ship in the several capacities against their respective names expressed on a Voyage from the Port of to [here the intended voyage is to be described as nearly as can be done, and the places at which it is intended the ship shall touch, or, if that cannot be done, the nature of the voyage in which she is to be employed]; and the said crew further engage to conduct themselves in an orderly, faithful, honest, careful, and sober manner, and to be at all times diligent to their respective duties and stations, and to be obedient to the lawful commands of the master in every thing relating to the said ship, and the materials, stores, and cargo thereof, whether on board such ship, in boats, or on shore [here may be inserted any other clauses which the parties may think proper to be introduced into the agreement, provided that the same be not contrary to or inconsistent with the provisions and spirit of this Act]; in consideration of which services, to be duly, honestly, carefully, and faithfully performed, the said master doth hereby promise and agree to pay to the said crew by way of compensation or wages the amount against their names respectively expressed: and it is hereby agreed, that any embezzlement, or wilful or negligent loss or destruction, of any part of the ship's cargo or stores, shall be made good to the owner out of the wages (so far as they will extend) of the seaman guilty of the same; and if any seaman shall have entered himself as qualified for a duty to which he shall prove to be not competent he shall be subject to a reduction of the rate of wages hereby agreed for, in proportion to his incompetency. In witness whereof the said parties have hereto subscribed their names on the days against their respective signatures mentioned.

No. and Date of Ship's Register.	Place and Time of Entry.			Men's Names, Christian and Surnames set forth at full length.	Town or County where born.	Quality.	Amount of Wages per Calendar Month, Share, or Voyage.	Amount of Wages advanced at time of Entry.	Amount of Monthly Allowment.	Quantity of Provisions per day.	Witness to Signature.	Name of Ship in which the Seaman last served.	Number of Register Ticket.
	Day.	Month.	Year.										

I hereby declare to the truth of all the particulars set forth in this agreement [or this attested copy of agreement], delivered to the Collector or Comptroller of the Port of this day of 18 . Master. Mate.

Note.—This agreement, or an attested copy thereof, is required to be delivered to the Collector and Comptroller of Customs within twenty-four hours after the arrival of the ship at her final port of destination in the United Kingdom.

SCHEDULE (B.)

AN AGREEMENT made pursuant to the Directions of an Act of Parliament passed in the
 of the master of the ship
 of the Port of
 Year of the Reign of
 and of the Burden
 Tons, and the several Persons whose Names are subscribed hereto.

It is agreed by and on the part of the said persons, and they severally hereby engage to serve on board the said ship in the said several capacities against their respective names expressed, which ship is to be employed in [here the nature of the ship's employment is to be described, whether in the fisheries, on the coast, or in proceeding from one part of the United Kingdom to another, or to any of the islands of Jersey, Guernsey, Alderney, Sark, and Man, or to any part of the Continent of Europe between the River Elbe inclusive and Brest]; and the said crew further engage to conduct themselves in an orderly, faithful, honest, careful, and sober manner, and to be at all times diligent to their respective duties and stations, and to be obedient to the lawful commands of the master in every thing relating to the said ship, and the materials, stores, and cargo thereof, whether on board such ship, in boats, or on shore [here may be inserted any other clauses which the parties may think proper to be introduced into the agreement, provided that the same be not contrary to or inconsistent with the provisions and spirit of this Act]; in consideration of which services, to be duly, honestly, carefully, and faithfully performed, the said master doth hereby promise to pay to the said crew by way of compensation or wages the amount against their names respectively expressed: provided always, and it is hereby declared, that no seaman shall be entitled to his discharge from the ship during any voyage in which she may be engaged, nor at any other port than a port in the United Kingdom: and it is hereby agreed, that any embezzlement, or wilful or negligent loss or destruction, of any part of the ship's cargo or stores, shall be made good to the owner out of the wages (so far as they will extend) of the seaman guilty of the same; and if any seaman shall have entered himself as qualified for a duty to which he shall prove to be not competent he shall be subject to a reduction of the rate of wages hereby agreed for, in proportion to his incompetency. In witness whereof the said parties have hereto subscribed their names on the days against their respective signatures mentioned.

No. and Date of Ship's Register.	Place and Time of Entry.			Men's Names. Christian and Surnames set forth at full length.	Age.	Town or County where born.	Quality.	Amount of Wages per Calendar Month, Share, or Voyage.	Quantity of Provisions per day.	Witness to Signature.	Name of Ship in which the Seaman last served.	Number of Register Ticket.
	Day.	Month.	Year.									

I hereby declare to the truth of all the particulars set forth in this agreement [or attested copy of agreement] delivered to the Collector or
 Comptroller of the Port of
 this
 day of
 18
 Master.
 Mate.

Note.—This agreement, or an attested copy thereof, is required to be delivered to the Collector or Comptroller of Customs of any port of the United Kingdom within thirty days after the thirtieth of June and the thirty-first of December in each year.

and 8 Vict.
c. 112.

SCHEDULE (C.)

Ship of the Port of of the Burden of Tons, whereof was Master.

A List of the Crew (including the Master and Apprentices) at the Period of quitting the Port of in the United Kingdom, from which she took her first Departure on her Voyage to on the Day of and of the Men who joined the Ship subsequent to such Departure, and until her Return to the Port of being her first final Port of Destination in the United Kingdom on the Day of 184 .

No. and Date of Ship's Register.	Name. Christian and Surname at full length.	Age.	Town or County where born.	Ship in which he last served.	Date of joining the Ship.	Place where.	Time of Death or leaving the Ship.	Place where.	How disposed of.	Date of Apprentices Indentures and Assignments.	When and where registered.	Numbers of Register Tickets.

Note.—If any one of the Crew has entered Her Majesty's Service, the name of the Queen's ship in which he entered must be stated in the account, under the head of "How disposed of."

Note.—This list to be filled up and signed by the master of every vessel, of whatever tonnage, and to be delivered by him to the Collector or Comptroller of the Customs within twenty-four hours after the ship's arrival at her final port of destination in the United Kingdom.

SCHEDULE (D.)

7 and 8 Vict.
c. 112.

An Account of the Voyages in which the Ship _____ of the Burden of _____
Tons has been engaged, in the Half Year commencing on the _____ Day of _____ 18____, and ending
on the _____ Day of _____ 18____, and of all the Persons (Master and Apprentices included) who have
belonged to such Ship during that Period.

ACCOUNT OF THE VOYAGES.

[Here the several Voyages, and the Periods of such Voyages, are to be described.]

ACCOUNT OF THE CREW.

No. and Date of Ship's Register.	Name. Christian and Surname at full length.	Age.	Town or County where born.	Quality.	Ship in which he last served.	Date of joining the Ship.	Place where.	Time of death or leaving the Ship.	Place where disposed of.	Date of Apprentices Indentures and Assignment.	When and where registered.	Numbers of Register Tickets.

Note.—If any one of the crew shall have entered Her Majesty's Service, the name of the Queen's ship in which he entered must be stated in this account, under the head "How disposed of."

Note.—This account, when filled up, is to be signed by the owner or master of every ship, of whatever tonnage, and deposited with the Collector or Comptroller of the Customs of any port of the United Kingdom within twenty-one days after the thirtieth of June and the thirty-first of December in every year.

SCHEDULE (E.)

Dated this day of 184 .
Master.

SCHEDULE (F.)

1. What is your christian and surname?
2. Have you or have you not been registered before?
3. Where were you born, and when?
4. When did you first go to sea?
5. In what capacity did you go, and in what capacity have you since served?
6. Have you or have you not served in the Royal Navy?
7. If you have, how long? and in what ships? and in what capacity?
8. Have you or have you not been in foreign service?
9. If you have, how long? and in what capacity? and under what flag?
10. How have you been generally employed at sea?
11. Where is your usual place of residence when unemployed?

SCHEDULE (G.)

7 and 8 Vic
c. 112.

NAMES, and distinguishing Numbers of the Register
 Tickets of the crew (including apprentices) now
 serving on board the _____ of the port
 of _____ of the burden of _____ tons, on taking
 departure from the port of _____ in the United
 Kingdom, bound on a voyage to _____

No. and Date of Ship's Register.	Name.	Capacity.	Number of Register Ticket.

Dated this _____ day of _____ 184 .
 Master.

Particulars to be clearly and legibly set forth.

SCHEDULE (H.)

Form of Parish Apprentice's Indenture.

THIS Indenture, made the _____ day of _____
 in the year of our Lord one thousand eight hundred
 and _____ witnesseth, That _____ Overseers
 of the poor of the [Parish] of (*) _____ in the

(*) Or it may be made by other persons having the authority of Overseers or Guardians, or in whom the duty of Overseers or Guardians of the Poor shall be vested.

and 8 Vict.
112.
Schedule (H.)

Division of in the County of in the
presence of and two of Her
Majesty's Justices of the Peace in and for the said
County acting in and for the said
division in which the said [parish or union] is situate,
do by this indenture, duly executed by the said Jus-
tices in testimony of their having been satisfied that
the boy hereby and hereafter bound and named hath
attained the age herein-after mentioned, and is of suf-
ficient health and strength as required by the statute
in such case made and provided, bind, put out, and
place, with his own free will and consent, and not
otherwise, a poor boy of the said [parish or
union], aged years, as appears by the copy of the
entry of his baptism in the register book of the Parish
of in the County of hereunto annexed ^(b)
who is now [and whose parents and]
are now chargeable to and maintained by the said
[Parish] of apprentice in the sea service to
one of Her Majesty's subjects of the [Parish]
of in the County of being the master ^(c)
of the ship called registered in the Port
of being a port of the United Kingdom of Great
Britain and Ireland, with him the said his

^(b) The copy must be given and attested by the officiating minister, without fee or reward. If it cannot be found, erase the words from "by the" to "annexed," and insert "from such information of such boy's age as the said Justices have been able to obtain, as the entry of his baptism cannot be found." The apprentice must be above twelve and under seventeen years of age, and bound for four years at the least.

^(c) Or owner.

executors and administrators, and the assign or assigns of the widow or of the executors and administrators of the said to dwell, remain, and serve from the day of the date of these presents for so long time and until the said apprentice shall attain the age of twenty-one years; during all which term the said apprentice, his said master, his executors and administrators, or the assign or assigns of the widow or of the executors or administrators of the said shall well and faithfully serve; his and their secrets keep; his and their lawful commands every where gladly do and execute; hurt or damage to his said master, his executors or administrators, or the said assign or assigns, he shall not do, consent or see to be done by others, but to the utmost of his power shall hinder the same, and forthwith his said master, his executors or administrators, or the said assign or assigns, thereof warn; taverns or alehouses he shall not frequent; at dice, cards, tables, bowls, or any other unlawful games he shall not play; the goods of his said master, his executors or administrators, or the said assign or assigns, he shall not embezzle or waste, or lend or give to any person or persons without his or their licence; nor from the service of his said master, his executors or administrators, or the said assign or assigns, without his or their consent, at any time absent himself; but as a true and faithful apprentice in all lawful businesses, according to his power, wit, and ability, and honestly, orderly, and obediently in all things, shall demean and behave himself towards his said master, his executors or administrators, or the said assign or assigns, during the said term; and true

7 and 8 Vict
c. 112.
Schedule (E)

and 8 Vict.

112.

schedule (H.)

and just accounts of his or their goods, chattels, and money committed to his charge, or which shall come to his hands, faithfully he shall give at all times, when thereunto required by him or them; and shall also render an account of, and well and truly pay or cause to be paid to him or them, all such wages, prize money, and other sum or sums of money as shall become due and payable unto him the said apprentice from Her Majesty, her heirs, successors, or any other person, in case he shall enter or go into Her Majesty's service during the said term. In consideration whereof, and of the sum of of lawful money of the United Kingdom of Great Britain and Ireland to him in hand well and truly paid at the execution of these presents (the receipt whereof the said doth hereby acknowledge), he the said for himself, his executors or administrators, doth hereby covenant, promise, and agree to and with the said Overseers of the Poor, and their successors, that he the said his executors or administrators, and the assign or assigns of his widow or of his executors or administrators, the said apprentice in the art, trade, or business of a mariner or seaman, with the circumstances thereunto belonging, shall and will, until he shall attain the age of twenty-one years, teach, learn, and instruct, or cause to be taught, learned and instructed, in the best way and manner that he or they can; and shall and will find, provide, and allow unto the said apprentice competent and sufficient meat and drink, apparel, lodging, washing, medicine, medical and surgical aid and advice, and all other things necessary and fit for an apprentice.

And also shall and will so provide for the said apprentice that he be not any way a charge to the said [Parish *or* Union] of or parish-ioners thereof; but of and from all charge shall and will save the [Parish *or* Union] of and parishioners thereof harmless and indemnified during the said term. In witness whereof the said Justices, and other parties abovesaid to the present indenture, interchangeably have set their hands and seals the day and year first above written.

7 and 8 Vic.
C. 112.
Schedule (I)

Signed, sealed, and delivered }
in the presence of }

We, the Guardians of the Poor of the [*
Union, within which the said parish is included] do
hereby testify our consent to the binding of the said
to the said and have hereunto caused
our official seal to be affixed, at a meeting of the
board this day of .
(Signed)

Seal of
the Board of
Guardians.

Presiding Chairman.

Clerk to the said Guardians.

* If the parish be not in union, omit the words within brackets.

7 and 8 Vict.
c. 112.

SCHEDULE (I.)

Form of Apprentice's Indenture.

THIS Indenture, made the day of
in the year of the reign of Her Majesty Queen
Victoria, by the Grace of God of the United Kingdom
of Great Britain and Ireland, Queen, Defender of the
Faith, and in the year of our Lord one thousand eight
hundred and between aged years,
a native of in the County of of the
one part, and of in the County of
of the other part, witnesseth, that the said hath
of his free will put and bound himself appren-
tice unto the said with him, his executors, admi-
nistrators, and assigns, after the manner of an apprentice
to dwell, remain, and serve from the day of the date
hereof for and during and until the full end and term of
 years from thence next ensuing fully to be complete
and ended ; during all which term the said apprentice
his said master shall well and faithfully serve ; his
secrets keep ; his lawful commands everywhere do and
execute ; hurt or damage to his said master he shall
not do, consent or see to be done by others, but to the
utmost of his power shall hinder the same, and forth-
with his said master thereof warn ; taverns or alehouses
he shall not frequent (unless about his said master's
business) ; at dice, cards, tables, bowls, or any other
unlawful games he shall not play ; the goods of his
said master he shall not embezzle or waste, or lend or
give to any person or persons without his said master's
licence ; nor from the service of his said master,

without his consent, at any time absent himself; but as a true and faithful apprentice shall demean and behave himself towards his said master, his executors, administrators, or assigns, during the said term; and true and just accounts of his said master's goods, chattels, and money committed to his charge, or which shall come to his hands, faithfully he shall give at all times, when thereunto required by his said master, his executors, administrators, or assigns; and shall also render an account of, and well and truly pay or cause to be paid unto his said master, his executors, administrators, or assigns, all such wages, prize money, and other sum or sums of money as shall become due and payable unto him from Her Majesty, her heirs, successors, or any other person, in case he shall be impressed, enter, or go into Her Majesty's service during the said term. In consideration whereof the said doth hereby covenant and agree to and with the said the apprentice, that he the said his executors, administrators, or assigns, during the said term of years, shall and will teach, learn, and inform the said apprentice, or cause him to be taught, learned, and informed, in the art, trade, or business of a mariner or seaman, with the circumstances thereunto belonging; and shall and will find and provide for the said apprentice sufficient meat, drink, washing, lodging, medicine, and medical and surgical aid and advice to pay unto the said apprentice the sum of pounds of lawful money of Great Britain, in manner following; (that is to say,) the said finding and providing to and for himself all manner of sea bedding, wearing apparel, and

7 and 8 Vict
c. 112.
Schedule (I)

7 and 8 Vict.
c. 112.
Schedule (I.)

other necessities (except meat, drink, lodging, washing, medicine, and medical and surgical aid and advice): and it is hereby agreed between the said parties, that the said shall and may from time to time during the said term deduct and retain in his hands, out of the several yearly payments above mentioned, all such sum or sums of money as he shall at any time during the said term disburse or lay out in the buying of any apparel or sea bedding for the said apprentice, as need shall require: and for the true performance of all and singular the covenants and agreements aforesaid, each of them the said and doth hereby bind and oblige himself, his heirs, executors, and administrators, unto the other of them, his executors and administrators, firmly by these presents, in the penal sum of pounds of lawful money of Great Britain.

In witness whereof the said parties to these presents have hereunto set their hands and seals the day and year above written.

Signed, sealed, and delivered {
in the presence of us }

CERTIFICATE OF BIRTH.

ind 7 W. IV.
86.

BIRTHS on board the British Ship *Jane*, of the Port of *London*, on a Voyage from *London* to *Memel*
and back.

When born.	Name, if any.	Sex.	Name and Surname of Father.	Name and Maiden Surname of Mother.	Rank or Profession of Father.	Signature, Description, and Residence of Informant.
7 January, 1839.	<i>James.</i>	<i>Male.</i>	<i>William Green.</i>	<i>Rebecca Green, formerly Jennings.</i>	<i>Carpenter.</i>	<i>John Cox, Mas- ter of the Ship Jane, of the Port of Lon- don.</i>

The words and figures in *Italics* in this Form to be filled in according as the case may be.

CERTIFICATE OF DEATH.

DEATHS on board the British Ship *Jane*, of the Port of *London*, on a Voyage from *London* to *Memel* and back.

When died.	Name and Surname.	Sex.	Age.	Rank or Profession.	Cause of Death.	Signature, Description, and Residence of Informant.
4 February, 1839.	William Green.	Male.	43.	Carpenter.		Master.

The words and figures in *Itakes* in this Form to be filled in according as the case may be.

6 and 7 W.
c. 86.

APPENDIX, No. V.

LAW RELATING TO LASCARS.

Law relating
Lascars.
Geo. IV.
80.

By the Act which regulates the trade from and to places within the limits of the Charter of the East India Company, the Governor General of Fort William in Bengal in Council is empowered and required to make, ordain, and publish, and from time to time as occasion may require to repeal and alter, and newly to make, ordain, and publish such rules and regulations to be observed by masters, officers, and owners of ships trading under the authority of that Act, the crews whereof shall be wholly or in part composed of Asiatic sailors, Lascars, or natives of any of the territories, countries, islands, or places within the limits of the charter of the said Company, for the due supply of provisions, clothing, and other necessary accommodation of such Asiatic sailors, Lascars, and natives whilst they shall be on board such ships or vessels, and whilst absent from the countries or places to which they shall respectively belong, and until they shall be carried back to the places to which they may belong, or from whence they may have been brought, and for the conveyance back of such Asiatic sailors, Lascars, or natives within a reasonable time, to be fixed by such rules or regulations. (4 Geo. IV. c. 80, s. 25.)

The master or other person having the command of every ship or vessel trading under the authority of the said Act, which shall arrive at any port in the United Kingdom of Great Britain or Ireland, and which shall have on board, or which during any part of her voyage shall have had on board, either as part of her crew, or in any other character, or for any other reason, any Asiatic sailor, Lascar, or native of any of the territories, countries, islands, or places within the limits of the charter of the said Company, before such ship or vessel shall be admitted to entry, is required to make out and exhibit to the principal officers of the Customs, or other person thereunto lawfully authorized, a true and perfect list and description of every such Asiatic sailor, Lascar, or native aforesaid who shall then be, or who during any part of her voyage shall have been on board such ship or vessel, with a true account and statement what shall have become of every such Asiatic sailor, Lascar, and native aforesaid, who may have been and shall not then be on board. (s. 27.)

Law relating
to Lascars.
4 Geo. IV.
c. 80.

And for every breach or non-observance of any rule or regulation to be made in pursuance of the said Act in relation to Asiatic sailors, Lascars, or natives aforesaid, and for every omission to make out and exhibit such list, description, account, or statement of and respecting all such Asiatic sailors, Lascars, or natives aforesaid as required by the said Act, the master or commander and all and every the owners and owner of the ship or vessel on board which any such Asiatic sailor, Lascar, or native aforesaid shall be or shall have been, shall forfeit the sum of ten pounds for every Asiatic sailor, Lascar, or native aforesaid in respect of whom such

Law relating
to Lascars.
4 Geo. IV.
c. 80.

breach, non-observance, omission, or defect shall have taken place, to be recovered against the master, commander, and owners jointly or severally, by bill, plaint, information, or action in any of the Courts of Record in the United Kingdom, or in the East Indies, or elsewhere, to be commenced in the county, or presidency, or place where any such offender may happen to be, or by conviction in a summary way before two Justices of the Peace in the United Kingdom, or in the East Indies, of the county or presidency where any such offender may happen to be; one-third part of which penalty is to be paid to the person who shall inform or sue for the same, and the other two-third parts thereof are to be applied in payment or reimbursement of any expense which may have been incurred by or for the use of the Asiatic sailor, Lascar, or native aforesaid, or the respective Asiatic sailors, Lascars, or natives aforesaid, in respect of whom such forfeiture or forfeitures shall have been recovered, or in such other manner for his or their maintenance, return home, or benefit as the Court or Justices before whom the same shall be recovered shall direct. (s. 28.)

Section 31 recites that Asiatic sailors, Lascars, and natives aforesaid may refuse to accept the maintenance to be provided for them under the rules and regulations before referred to, or to return home in the ships or vessels which may be engaged for that purpose; and enacts that if any such Asiatic sailor, Lascar, or native aforesaid shall at any time be convicted of an act of vagrancy under any of the laws in force in the United Kingdom respecting vagrants, it shall be

lawful for the magistrate before whom such conviction shall take place, to order and direct that he shall be shipped on board any ship or vessel bound to the place, or as near as may be to the place to which he shall belong, or from which he shall have been brought, and the commander of which shall be willing to take charge of him, in order to his being returned thereto, at the expense of the person or persons liable under any rule or regulation to be made as before mentioned, or of any other person being otherwise willing to defray the same; and the commander of any such ship or vessel having taken charge of such vagrant, is authorized and required to keep and detain him on board his ship for the voyage for which he shall be shipped. (s. 31.)

Law relating
to Lascars.
4 Geo. IV.
c. 80.

And any Asiatic sailor, Lascar, or native aforesaid, having been brought to the United Kingdom on board any ship or vessel, not being a ship of war in the service of Her Majesty, who may be found within the United Kingdom in distress for want of food, clothing, or other necessaries, may be relieved and maintained by the East India Company until sent on board some ship bound for some place within the Company's limits; and the said Company may pay, defray, and advance the money necessary to procure such persons a passage home; and all such sums as the said Company shall so pay are to constitute and become a joint and several debt due to the said Company from the commander, owner or owners of such ship, on board whereof such person or persons shall have been brought into the United Kingdom, and shall be recoverable in any of the Courts of the United Kingdom,

Law relating to Lascars.
4 Geo. IV.
c. 80.

or in the East Indies, if the owner shall reside there, with full costs of suit.* (s. 34.)

The following are the

RULES AND REGULATIONS

made, ordained, and published by the Governor General in Bengal, in pursuance of the Act (4 Geo. IV. c. 80):—

I. Every such ship or vessel, which shall clear out from any port or place in any territory, country, or island under the government of the said United Company, or belonging to His Majesty within the limits aforesaid, upon any voyage to the United Kingdom, or to any port or place beyond the limits of the charter of the said United Company, and every such ship or vessel which shall arrive at any port or place in the said United Kingdom, and every such ship or vessel which, having cleared out from any port or place in any territory, country, or island as aforesaid, shall arrive at any port or place without the limits of the charter of the said United Company, shall be provided with an expert surgeon of ability and knowledge; and in each case before any such ship or vessel shall clear out from any port or place under the government of the said United Company or belonging to His Majesty within the limits aforesaid, such surgeon shall be previously examined by the Medical Board, or by such medical person or persons as shall be appointed for that purpose by the government, or principal officer of

* See also 7 and 8 Vict. c. 112, s. 64.

the port or place from whence such ship or vessel shall clear out; and no surgeon shall be deemed a fit surgeon unless he shall be testified by such Medical Board, or by such other medical person or persons, to be duly qualified; and such surgeon shall be retained and entertained on board such ship or vessel during the whole voyage (unavoidable casualties excepted) by and at the expense of the owner or owners of such ship or vessel, and shall administer such medical and surgical aid as shall be requisite to the Asiatic sailors, Lascars and natives on board of such ship or vessel during the voyage on which such ship or vessel shall proceed or be bound; and every such ship or vessel shall also be furnished, at the like expense, with a proper quantity and assortment of medicines fit for the said Asiatic sailors, Lascars and natives; and it shall and may be lawful for the government, or principal officer of the port or place where such ship or vessel may be under the government of the said United Company, or belonging to His Majesty within the limits aforesaid, and before such ship or vessel shall clear out, to appoint any medical person or persons to examine the quantity, quality and assortment of such medicines; and such ship or vessel shall not be permitted to clear out from such port or place as aforesaid until the government or principal officer thereof shall be duly satisfied that a sufficient quantity and proper assortment of such medicines shall have been furnished: provided always, that if such owner or owners, master or other commanding officer of any such ship or vessel, which may be intended to be cleared out from any port or place under the

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government of the said United Company, or belonging to His Majesty within the limits aforesaid, after using due diligence and reasonable and proper means in that behalf, shall not be able to procure or retain an expert surgeon duly qualified as aforesaid, and such owner or owners, master or other commanding officer shall represent the same in writing to the government, or principal officer of the port or place where such ship or vessel may be, together with a true statement of the means that have been adopted or employed to procure a fit surgeon as aforesaid, then it shall and may be lawful for the government, or principal officer of the port or place where such ship or vessel may be, on being duly satisfied that a fit surgeon cannot be procured, to authorize and permit such ship or vessel, by a licence in writing, to be in that behalf granted by the Secretary for the time being of such government, or by the principal officer of such other port or place as aforesaid, to clear out and proceed on the voyage then intended without having such surgeon on board, any thing herein contained to the contrary thereof notwithstanding.

II. That every such ship or vessel which shall be navigated by the proportion of British seamen directed by the twenty-first section of the said Act of Parliament, that is to say, by four British seamen as part of the crew for every hundred tons of the registered burthen of such ship or vessel, and so in proportion for any part of a hundred tons, shall be manned with not less than six of such Asiatic sailors, Lascars, or natives, being men, or five men and two boys for every hundred tons of the registered burthen of such

ship or vessel, and one man more for every ten tons beyond the last even hundred tons thereof, in addition to the said proportion of British seamen, and every such ship or vessel the crew whereof shall be in part composed of such Asiatic sailors, Lascars, or natives, and which shall not be navigated by the proportion of British seamen abovementioned, but which shall, by virtue of the twenty-second section of the said Act of Parliament, be licensed to sail and carry on her voyage with a less proportion of British seamen than required by the said twenty-first section of the Act of Parliament, shall be manned with such a proportion of such Asiatic sailors, Lascars, or natives to the registered burthen of such ship or vessel as is herein-after specified, (that is to say,) when the number of such British seamen shall be three for every hundred tons of the registered burthen of such ship or vessel, and so in proportion for any part of a hundred tons, the number of such Asiatic sailors, Lascars, or natives, shall be seven men and one boy for every such hundred tons, and one man more for every ten tons beyond the last even hundred tons, in addition to the said proportion of British seamen; when the number of such British seamen shall be two for every hundred tons of the registered burthen of such ship or vessel, and so in proportion for any part of a hundred tons, the number of such Asiatic sailors, Lascars, or natives shall be nine, being men, or eight men and two boys for every such hundred tons, and one man more for every ten tons beyond the last even hundred tons thereof, in addition to the said proportion of British seamen; when the number of such British seamen shall be one

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for every hundred tons of the registered burthen of such ship or vessel, the number of such Asiatic sailors, Lascars, or natives shall be ten men and one boy for every such hundred tons, in addition to the said proportion of British seamen; and when such ship or vessel shall be navigated by any British seamen, exclusive of the mates or officers, and the number of such British seamen shall be less than one for every hundred tons of the registered burthen of such vessel, the number of such Asiatic sailors, Lascars, or natives shall be eleven, being men, or ten men and two boys for every such hundred tons, and one man more for every ten tons beyond the last even hundred tons, in addition to the said proportion of British seamen; and every such ship or vessel the crew whereof shall be wholly composed of such Asiatic sailors, Lascars, or natives, or which shall with the exception of the mates or officers be wholly composed of such Asiatic sailors, Lascars, or natives, shall be provided with a gunner, a carpenter, a caulker, and the usual number of sea-cunnies, and shall exclusively of such officers, gunner, carpenter, caulker, sea-cunnies and servants in such ship or vessel, be manned with not less than twelve of such Asiatic sailors, Lascars, or natives, being men, or eleven men and two boys for every hundred tons of the registered burthen of such ship or vessel, and one man more for every ten tons beyond the last even hundred tons thereof.

III. Every such ship or vessel shall be furnished and provided by and at the expense of the owners or owner of such ship or vessel, with a sufficient quantity of wholesome and good provisions, and with a suffi-

cient quantity of fuel, properly adapted for the use of the Asiatic sailors, Lascars and natives who may embark, or who during the voyage may be on board such ship or vessel, and such provisions shall be regularly served out to such Asiatic sailors, Lascars and natives, during the course of such voyage, in manner following, that is to say, whenever such ship or vessel, during the course of such voyage, shall be within the tropics, agreeably to the under-mentioned scale, viz.—

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	Per man per day.	or	Per man per day.	Per man per month.
	lbs. oz. dr.		Secrs. Chks. Sa. wt.	Secrs. Chks. Sa. wt.
Rice	2 0 14	or	1 0 0	30 0 0
Dholl	0 5 7		0 2 2½	4 11 0
Ghee	0 1 5		0 0 2½	0 15 0
Salt	0 0 13		0 0 1½	0 9 0
Turmeric	0 2 1		0 1 0	1 14 0
Garlic	0 2 1		0 1 0	1 14 0
Chillies	0 1 15		0 0 3½	1 6 2½
Tamarinds	0 0 13		0 0 1½	0 9 0
Commin Seed	0 0 8		0 0 1	0 6 0
Coriander Seed	0 0 8		0 0 1	0 6 0
Pumpkins, Yams and Potatoes. { as far as a rea- sonable stock of them can be laid in at the commence- ment of the voyage. }	0 4 2		0 2 0	3 12 0
Ginger	0 0 4		0 0 ½	0 3 0
Tea	0 0 11		0 0 1½	0 8 0
Sugar	0 1 6		0 0 2½	1 0 0
Vinegar { Six pints per month per man. }				
Oil for the body in bad weather.	0 0 11		0 0 1½	{ per man per day.

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And whenever such ship or vessel, during the course of such voyage, shall pass beyond the tropics, either to the northward or southward, then in addition to the foregoing scale or allowance, shall be added food of a more nourishing quality, viz.—

	Per man per month.				Per man per month.	
	lbs.	oz.	dr.		Seers.	Chks.
Pillow Meat	8	3	7	or	4	0
Curry Meat	6	2	9		3	0
Biscuit	10	4	4		6	0
Wheat	14	5	15		7	0
Pickled Mangoes	2	0	14		1	0
Rum .	{ exclusive of the discre- tionary allowance in time of bad weather }			Two drachms per day per man.		

And in addition to the above mentioned stock of provisions, and other articles herein before mentioned, the owners or owner of every such ship or vessel herein before mentioned, shall also lay in a stock of tobacco, sufficient for the supply of at least three-fourths of the Asiatic sailors, Lascars or natives on board, for the voyage, at the rate of one half seer, or one pound weight per man per month, to be served out to such Asiatic sailors, Lascars, or natives, when their own private stock of that article shall have been exhausted, which tobacco shall be estimated at twenty per cent. on the prime cost of the article, such prime cost to be certified by the inspecting or other officer appointed for that purpose, and the price of such tobacco to be deducted, at the end of the voyage, from

the wages of such man to whom the same shall have been supplied: and the entire quantity of provisions and other articles, which shall be laid in for the use of the said Asiatic sailors, Lascars and natives as aforesaid, shall be estimated as follows, viz.—to Europe, North America, the Eastern Coast of South America, and the Western Coast of America respectively, customary provision for six months, and food of a more nourishing quality for four months. To New South Wales, customary provisions for four months, and food of a more nourishing quality for two months. And it is hereby directed, that stock of fuel and water shall be laid in by every such ship or vessel as aforesaid for the supply of the Asiatic sailors, Lascars, or natives on board, that it shall be in proportion to the stock of other provisions taken on board as aforesaid, and that the said stock of water shall be in proportion to the number of Asiatic sailors, Lascars, or other natives on board of such ship or vessel as aforesaid, and that in particular the said stock of water so taken in for the supply of the Asiatic sailors, Lascars, and other natives, shall be of sufficient quantity to allow for every Asiatic sailor, Lascar, or other native, on board of such ship or vessel during the said voyage, one gallon at the least for each day; provided always, that whenever the sea-cunnies, or any other part of the crew of such ship or vessel shall be Anglo-asiatics or native Portuguese, they shall be victualled as European seamen.

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IV. Every such ship or vessel shall be furnished and provided by and at the expense of the owner or owners of such ship or vessel, and for the use of such

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Asiatic sailors, Lascars, and natives who may embark or be on board such ship or vessel during the intended voyage, the following bedding and clothing, viz. one bed, to consist of three country blankets sewed together; one pillow, stuffed together with blanketing; one blanket, one jacket, and one pair of trousers with feet, made of four yards of European red or blue cloth; one jacket and one pair of trousers with feet, made either of European cloth or country blanketing; one pair of shoes, two woollen caps, two pair of woollen mittens for each man; and that such bedding and clothing shall be delivered out to such Asiatic sailors, Lascars and natives as aforesaid who may not be previously supplied therewith, whenever such ship or vessel shall be in any latitude to the northward of twenty-four degrees north latitude, or to the southward of twenty-four degrees south latitude, and that such bedding and clothing shall thereupon become the property of the persons to whom the same shall be delivered. Provided always, that no Asiatic sailor, or native shall be entitled to receive more than one set of bedding and of clothing in the course of one voyage; and that the owners or owner of such ship or vessel, supplying such bedding or clothing, shall be at liberty to deduct from the wages of each Asiatic sailor, Lascar and native as aforesaid, who shall be supplied with such bedding or clothing, in addition to the prime cost, twenty per cent. on the articles respectively supplied to any such Asiatic sailor, Lascar, or native as aforesaid, and which said prime cost shall be certified by the inspecting or other officer thereto appointed.

V. Every such ship or vessel shall be provided with healthy and roomy berths or lodging places, properly ventilated in the fore-part of the between decks of such ship or vessel, which shall be left clear for the accommodation of the Asiatic sailors and natives as aforesaid, who may embark or proceed on board of such ship or vessel, to each man of whom, in ships or vessels having no top-gallant fore-castle, shall be allowed a space of thirty-five cubic feet for his accommodation before the main-mast, but in cases of ships or vessels having a top-gallant fore-castle, twenty-four cubic feet shall be deemed sufficient for each of such persons; and that all Asiatic sailors, Lascars and natives as aforesaid, who shall not be required to perform the duties of the said ship or vessel, or who shall not belong to the watch gang that may be actually employed in performing the duty or work of the said ship or vessel, shall be suffered and permitted to remain in their berths or lodging places herein before mentioned, in the same manner as is usually permitted to European sailors, and until it shall be the turn of duty of such Asiatic sailors, Lascars, or natives who may remain below to relieve the watch or gang employed on the upper deck; and in order to enable the Asiatic sailors, Lascars, or natives as aforesaid to obtain the benefit of this regulation, the master or commander of every such ship or vessel shall divide the Asiatic sailors, Lascars, or natives into two watches or gangs, accordingly as the duty of the ship or vessel may require, and in such manner that a portion of such Asiatic sailors, Lascars, or natives forming one watch or gang may remain on the upper deck to per-

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form the duty of the said ship, while the residue of such Asiatic sailors, Lascars and natives may remain in their berths or lodging places as aforesaid, in the same manner as is usually practised and observed towards European sailors; and every such ship or vessel as aforesaid of the burthen of five hundred tons and under, shall be provided by and at the expense of the owner or owners thereof, with one caboose for the purpose of enabling the said Asiatic sailors, Lascars and natives to cook their victuals on board such ship or vessel, according to the manners, habits and customs of such Asiatic sailors, Lascars, or natives respectively, and to be appropriated exclusively to and for their use; and which said caboose shall not be less in length than four feet ten inches, or in breadth than three feet two inches, and in height five feet; and every such ship or vessel as aforesaid exceeding five hundred tons, shall in like manner be furnished with two such cabooses for the purpose herein aforesaid.

VI. No such ship or vessel shall clear out from any port or places under the government of the said United Company, or belonging to His Majesty within the limits aforesaid, before the commander thereof shall have delivered to the officer authorized to grant the port clearance, a true list in duplicate of every Asiatic sailor, Lascar, or native on board or intended to be taken on board such ship or vessel, and a true specification of the terms and rate of wages on which such Asiatic sailor, Lascar, or native shall have been hired; and also a true list in duplicate of the tobacco and quantities and sort of provisions, and the prices thereof respectively, and of the quantities of water and fuel

respectively, which shall have been provided for the use of such Asiatic sailors, Lascars, and natives ; and also a true and correct list in duplicate of the bedding and clothing, and the price thereof respectively, provided for the use of such Asiatic sailors, Lascars, and natives ; and also a true list in duplicate of the quantities, qualities, and assortment of medicines provided and on board of such last mentioned ship or vessel—each part or list as aforesaid being signed by the commander of the ship or vessel so delivering the same to the officer authorized to grant a port clearance as aforesaid. And in order that it may be ascertained that such tobacco, provision, fuel, bedding, and clothing are respectively sufficient in quantity, and fit and proper in quality, for the use of the said Asiatic sailors, Lascars, and natives during the intended voyage, the owners or owner, or commander, of every such ship or vessel shall deliver samples of musters of all such tobacco, provisions, fuel, bedding, and clothing, with the prices thereof respectively, to the inspecting officer, or other person or persons who shall or may be appointed by the government, or to the principal officer of the port or place at which such ship or vessel may be, to inspect the same respectively ; and such owners or owner, or commander, shall from time to time produce such tobacco, provisions, fuel, bedding, and clothing to such inspecting officer or other person or persons so appointed, as well on board of the said ship or vessel, as before the same shall have been put on board, for such inspecting officer or other person or persons so appointed to inspect and examine the same, respect being had to the convenience of the

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commander and the time of lading the said ship or vessel; and the owners or owner, or commander of such ship or vessel as aforesaid, shall permit and suffer such inspecting officer or other person or persons who shall be appointed on that behalf by the government, or principal officer of the port or place in which such ship or vessel may be, to inspect and examine the said ship or vessel, as well below as upon the upper deck, in order to ascertain what accommodations, or berths or lodging places, may have been provided for the use of such Asiatic sailors, Lascars, and natives as aforesaid, and whether sufficient space shall have been left to afford healthy and roomy berths or lodging places for such Asiatic sailors, Lascars, and natives respectively, in manner herein aforesaid; and also in order to ascertain whether proper and sufficient accommodations for cooking have been provided, so that such Asiatic sailors and natives may be enabled to cook their victuals on board such ship or vessel according to their own manners, habits, and customs; and that when such ship or vessel shall so clear out, the officer authorized to grant such port clearance shall countersign the respective lists herein before directed to be delivered to him in duplicate, and return one part of each set of lists to the person in command of such ship or vessel, and that on the arrival of such ship or vessel at the port or place within the said United Kingdom to which such ship or vessel may be bound, or at any other port or place belonging to his Majesty, without the limits of the charter of the said United Company, to which such ship or vessel may be bound, the person in command of such ship or vessel shall deliver such

lists so countersigned to the officer authorized to admit such ship or vessel to entry, and shall also deliver to the said last mentioned officer a true list containing the names of every Asiatic sailor, Lascar, and native as aforesaid, not included in the first list countersigned as aforesaid, and who shall have been shipped after the commencement of the voyages of such ship or vessel, or during the progress thereof, with a specification in like manner of the terms and rates of wages at which such last mentioned Asiatic sailors, Lascars, and natives as aforesaid, may have been hired; and also a true and correct statement in writing of any casualties that may have happened to any or either of the said Asiatic sailors, Lascars, or natives as aforesaid, who at any time were shipped on board such ship or vessel, and of what shall have become of every man comprized in such list, and who shall not be on board such ship or vessel at the time of her entry into any such port; and also a true and correct account shewing the bedding and clothing, and quantity of tobacco, which may have been furnished and supplied to each Asiatic sailor, Lascar, and native as aforesaid, on board of such ship or vessel during the voyage, and what sum or balance shall be due and owing to each Asiatic sailor, Lascar, and native as aforesaid, for his wages at the time of the arrival of such ship or vessel at her consigned port.

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VII. The owners or owner of every such ship or vessel from which any Asiatic sailor, Lascar, or native as aforesaid, shall be discharged or landed in any country, other than that from which such Asiatic sailors, Lascars, or natives as aforesaid, shall have been

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shipped, or to which he shall belong, shall at the proper costs and charges of such owners or owner find and provide proper and sufficient lodging, raiment, food, medicines, and if necessary medical and surgical assistance, for each and every Asiatic sailor, Lascar, or native as aforesaid, who may be so discharged or landed as aforesaid, from the time of the discharge or landing of each and every such Asiatic sailor, Lascar or native as aforesaid, until he shall be able to enter himself on board of some other ship or vessel bound to his own country and in which he may work his way to the port whence he may have been shipped; provided that the owners or owner of the ship or vessel bound to the country of such Asiatic sailor, Lascar, or native as aforesaid, shall contract to provide such last mentioned Asiatic sailor, Lascar, or native as aforesaid, with a proper berth and good and sufficient food, bedding, clothing, medicines, and medical and surgical aid, during such voyage to the port or place where such Asiatic sailor, Lascar, or native as aforesaid, may have been shipped or hired as aforesaid, and in the same manner and subject to the rules and regulations herein before respectively ordained for the accommodation and treatment of Asiatic sailors, Lascars, and natives as aforesaid; the whole expense of which contract, if any, to be borne and sustained by the owner or owners of the ship or vessel in which such Asiatic sailor, Lascar, or native shall have been shipped within the limits aforesaid, and from which such Asiatic sailor, Lascar, or native as aforesaid, shall have been discharged or landed as aforesaid; provided also, that if such last mentioned Asiatic sailor or native

shall not be able, either from want of opportunity, from sickness, or from any other cause, within four calendar months from the time of his discharge or landing as aforesaid, to enter himself on board of such ship or vessel bound to his own country, or to the port or place where he may have been hired or shipped, in conformity with the contract and on the terms and conditions herein before mentioned, in any such case the owners or owner of such ship or vessel from which such last mentioned Asiatic sailor, Lascar, or native shall have been discharged or landed as aforesaid, shall find and provide for him a suitable passage to the country, port, or place at which he shall have been hired or shipped, or to which he may belong, with sufficient and proper food, clothing, bedding, medicines, and medical and surgical aid, during such passage, and in manner herein before ordained for the accommodation and treatment of such Asiatic sailor, Lascar, or native as aforesaid, during the voyage on board the ship or vessel from which he shall have been discharged or landed as aforesaid; and the owners or owner of every such ship or vessel trading under the authority of this Act, who shall contract or agree to carry or convey any Asiatic sailor, Lascar, or native as aforesaid, and who shall have been landed or discharged as aforesaid, from any port or place in the United Kingdom, or without the limits aforesaid, to the port or place at which such Asiatic sailor, Lascar, or native as aforesaid, shall have been hired or shipped, or to which he shall belong, and whether such Asiatic sailor, Lascar, or native entered himself to work his way back as aforesaid, or shall have been sent on board

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as a passenger, shall be subject to the rules and regulations herein before ordained for the accommodation and treatment of such Asiatic sailors, Lascars, and natives as aforesaid, during the voyage of the ship or vessel from which he shall have been discharged or landed, so far as the same may be respectively applicable to the character or situation in which such Asiatic sailor, Lascar, or native as aforesaid, may have been shipped or embarked in order to return to the port or place to which he may belong.

Subsequent to the date of the foregoing rules and regulations the following notifications were published :—

NOTIFICATION (No. 1.)

With reference to the rules and regulations passed by government on the 31st January last, and published in the Government Gazette of the 14th instant, notice is hereby given to owners and commanders of ships or vessels, whose crews are wholly or in part composed of Asiatic sailors, that the marine surgeon and his assistant have been appointed to examine the quantity, quality, and assortment of medicines to be supplied agreeably to the first section. They are accordingly requested to submit the same for the inspection of one of the above officers, communicating at the same time, in writing, the number of Asiatic sailors, Lascars, or natives, of which the crew of their ship or vessel is composed, the port to which the said ship or vessel is bound, and the probable length of the voyage on which she is proceeding.

2. It is hereby further notified, in the event of

owners or commanders being unable to obtain a duly qualified surgeon for the voyage, as required by the said rules, or to procure the proper number of British seamen (that is to say four British seamen, as part of the crew, for every hundred tons of the registered burthen of the ship or vessel, and so in proportion for any part of a hundred tons), that they are to make application to government, through the Marine Board, for a licence to sail without such surgeon, or without such proportion of British seamen—accompanying such application with proof of their having used due diligence to procure the above. The application for a licence to sail without the proper number of British seamen as aforesaid, must also state the number of British seamen on board, in order that the same may be entered in the licence agreeably to the provisions of the Act 4th George IV. c. 80.

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By order of the Marine Board.

(Signed) W. P. PALMER,
Acting Secretary.

Marine Board, February 21, 1828.

By notification (No. 2) dated 7th April, 1830, owners and commanders of ships were informed, with reference to the notification under date 21st February, 1828, that the duties of “inspector of provisions, &c., for Asiatic seamen” would be thenceforth conducted by the department of the master attendant.

APPENDIX No. VI.

Forms of pro-
ceedings un-
der 7 and 8
Vict. c. 112.

*Form of Commitment of a Seaman, under the Act
(7 and 8 Vict. c. 112, s. 6.)*

TO WIT. } To the Keeper of the Prison at
 } [or to the Governor of the House of
 } Correction at] in the County
 } of or his Deputy.

RECEIVE into your custody in the said Prison [or House of Correction] the body of *A. B.* herewith sent you, who has been this day duly convicted before me *J. P.* Esquire, one of Her Majesty's Justices of the Peace in and for wherein the ship hereinafter mentioned is now lying and being [or wherein the said *A. B.* hath been found] upon complaint made upon oath by *C. D.* master of the said ship, [mate, or agent to the master or owner of the said ship, *as the case may be,*] and upon due proof on the oath of the said *C. D.* and who have been severally examined in the presence of the said *A. B.* of a certain offence, For that on the day of in the year of our Lord one thousand eight hundred and the said *A. B.* being a Seaman, and having theretofore by an agreement in

writing engaged to serve as such seaman in and on board of a certain ship, to wit, a ship called the belonging to a subject of Her Majesty, [and proceeding to parts beyond the seas, *if the agreement be according to the form in Schedule (A.)* and as such seaman to proceed in the said ship on a certain voyage, to wit, from the Port of to or if *the agreement be according to the form in Schedule (B.)*, which said ship was then and there employed in *here state the nature of the ship's employment according to the agreement in Schedule (B.)*] he the said *A. B.* did before the commencement of the said voyage unlawfully neglect and refuse to join the said ship, and hath not given a reason to the satisfaction of me the said Justice for his said neglect and refusal, [*or did before the commencement of the said voyage unlawfully refuse to proceed to sea in the said ship, and hath not given a reason to the satisfaction of me the said Justice for his said refusal*] [*or did during the progress of the said voyage* [*or if the agreement be according to the form in Schedule (B.)*] during the time and period specified for his service] unlawfully absent himself from the said ship without leave, and hath not given a reason to the satisfaction of me the said Justice for his said absence,] [*or did unlawfully desert from the said ship*] contrary to the statute in that case made and provided. For which said offence I the said Justice have adjudged the said *A. B.* to be committed to the said Prison [*or House of Correction*] and there to be imprisoned [*if hard labour be adjudged add,* and kept to hard labour] for the period of Him therefore safely keep in your custody [*and to hard labour*] in the said

Forms of proceedings under 7 and 8 Vict. c. 112.

Forms of pro- Prison [or House of Correction] for the said period of
ceedings un-
der 7 and 8 And for so doing this shall be your suffi-
Vict. c. 112. cient warrant.

Given under my hand and seal on the
day of in the year of our Lord one thousand
eight hundred and

*Form of Award of Costs incurred by a Master or
Owner in the apprehension of a Seaman, under the
Act (7 and 8 Vict. c. 112, s. 6.)*

} WHEREAS *A. B.* a Seaman hath been
TO WIT. } brought before me *J. P.* Esquire, one
of Her Majesty's Justices of the Peace in and for the
County of and charged on the complaint
made on oath of *C. D.* master [or, &c.] of the ship
with having [*here briefly state the offence.*]
And whereas at the request of the said *C. D.* I have
thought fit instead of committing the said *A. B.* to
cause him to be conveyed on board the said ship, for
the purpose of proceeding on the said voyage. And
whereas it appeareth to me the said Justice that the
said *C. D.* hath incurred costs in the apprehension
of the said *A. B.* amounting to the sum of
I do therefore, in pursuance of the statute in such
case made, hereby award the said sum of
for such costs, to be chargeable against and to be
deducted from the wages of the said *A. B.*

Given under my hand and seal on the day
of in the year of our Lord

Form of Order for the Payment of Wages earned by a Seaman under the Agreement in Schedule (A.) 7 and 8 Vict. c. 112, in a case where the time of Payment is to be computed from the delivery of the Cargo. (ss. 11 and 15.)

Forms of proceedings under 7 and 8 Vict. c. 112.

TO WIT. } WHEREAS on the day of in
 } the year of our Lord one thousand eight
 hundred and one *A. B.* of
 Seaman, made complaint upon oath before me, *J. P.*,
 Esquire, one of Her Majesty's Justices of the Peace
 in and for the County of that he had duly
 served as a seaman in a certain ship called the
 for the wages of during a certain voyage
 to parts beyond the seas, to wit, to
 and back to the Port of which said ship
 delivered and discharged her cargo on the
 day of in the year aforesaid, in the said
 Port of the said port being a place near
 to and within the said County of and that
 after the expiration of three days from the time when
 the cargo of the said ship was delivered and discharged
 as aforesaid—to wit, on the day of
 in the year aforesaid—one *C. D.*, being the master of
 the said ship, did unlawfully neglect and refuse to pay
 to the said *A. B.* the sum of which said sum
 was then and there due and payable to him as wages
 for and on account of the services of the said *A. B.* in
 the said ship during the voyage aforesaid; and did
 further neglect and refuse, without sufficient cause, to
 pay the said sum of money for the space of

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ceedings na-
lar 7 and 8
Act. c. 112.

days beyond and after the said last mentioned day, whereby the said *C. D.* became liable to pay to the said *A. B.* the further sum of being the amount of two days pay for each and every of the said days during which payment of the said wages was, without sufficient cause, delayed as aforesaid. And whereas on the day of in the year aforesaid, the said *C. D.*, having been duly summoned, appeareth and is present before me the said Justice; and I the said Justice, having examined the said parties [and their respective witnesses, *if there be any*] upon oath touching the said complaint and the amount of wages due to the said *C. D.*, [and *if the agreement, or a copy thereof, be produced*, having inspected the agreement, or a copy of the agreement entered into by the said parties], I the said Justice do [or thus if the master or owner fail to appear. And whereas on the day of in the year aforesaid, one appeareth before me the said Justice, and on oath deposeth that on the day of in the year aforesaid, he personally served the said *C. D.* with my summons requiring him personally to be and appear before me the said Justice, on the said day of in the year aforesaid, at in the said county, to answer the said complaint of the said *A. B.*; but the said *C. D.* hath neglected to appear before me in pursuance of my said summons, and doth not show any cause why the said wages should not be paid to the said *A. B.*, nor why he the said *C. D.* should not forfeit and pay to the said *A. B.* the said further sum of being the amount of two days pay for each and every of the said

days during which payment of the said wages hath been delayed, without sufficient cause, beyond the period of three days after the cargo of the said ship had been delivered and discharged as aforesaid. And I the said Justice, having examined the said *A. B.* and his witnesses, *if any there be*, upon oath, touching the said complaint and the amount of wages due to the said *C. D.*, I the said Justice do] upon due consideration had thereof, on the said last mentioned day, adjudge the said complaint to be true, and do hereby adjudge, determine, and order the said *C. D.* to pay to the said *A. B.* the sum of which appears to me the said Justice to be due from and payable by the said *C. D.* to the said *A. B.*—that is to say, the sum of being for the wages of the said *A. B.* for his service as a seaman in the said ship as aforesaid, and the sum of being the amount of two days pay for each and every of days during which payment of the wages due and payable to the said *A. B.* hath been unlawfully delayed as aforesaid, according to the form of the statute in such case made and provided.

Given under my hand and seal on the said day of in the year aforesaid.

Forms of proceedings under 7 and 8 Vict. c. 112.

Forms of pro-
ceedings un-
der 7 and 8
Vict. c. 112.

*Form of Order for Payment of Wages earned by a Seaman under the Agreement in Schedule (A.), 7 and 8 Vict. c. 112, in a case where the Seaman shall have been discharged before the delivery of Cargo without receiving a fourth part of his Wages. (ss. 11 and 17.)**

TO WIT. } WHEREAS on the day of
 } in the year of our Lord one thousand
eight hundred and one *A. B.* of
Seaman, made complaint upon oath before me *J. P.*
Esquire, one of Her Majesty's Justices of the Peace
in and for the County of that he had duly
served as a seaman in a certain ship called the
for the wages of during a certain voyage
to parts beyond the seas, to wit, to
and back to the Port of which said ship
delivered and discharged her cargo [*or ended her*
voyage, or cleared at the Custom House] in the Port
of the said port being a place near to and
within the said County of and that on the
day of in the year aforesaid, he the said *A. B.*
was discharged from the said ship, and that one *C. D.*,
being master of the said ship, did, at the time of the
discharge of the said *A. B.*, unlawfully neglect and
refuse, and hath for the space of days after-
wards unlawfully neglected and refused, to pay to
him the said *A. B.* one fourth part of the balance of

* The form may be easily adapted to a case wherein such fourth part shall have been paid, by omitting the words relating to such payment.

wages due and payable to him for his service as aforesaid; and that, after the expiration of seven days from the time of the discharge of the said *A. B.*—to wit, on the day of in the year aforesaid—the said *C. D.* did unlawfully neglect and refuse to pay to the said *A. B.* the sum of which said sum was then due and payable to him as wages for and on account of the services of him the said *A. B.* in the said ship during the voyage aforesaid, and did further neglect and refuse, without sufficient cause, to pay the said sum of money for the space of days beyond and after the said last mentioned day; whereby the said *C. D.* became liable to pay to the said *A. B.* the further sum of being the amount of two days pay for each and every of the said days during which payment of the said wages, and of the said fourth part thereof, was, without sufficient cause, delayed as aforesaid.

Forms of proceedings under 7 and 8 Vict. c. 112.

[*Conclude as in the preceding form.*]

Form of Order for payment of Wages earned under the Agreement in Schedule (B.) 7 and 8 Vict. c. 112, in a case where the Seaman shall have continued his service until the termination of his Agreement.
(ss. 11 and 15.)

TO WIT. } WHEREAS on the day of in
 } the year of our Lord one thousand eight
hundred and one *A. B.* of
Seaman, made complaint upon oath before me *J. P.*
Esquire, one of Her Majesty's Justices of the Peace

Forms of pro-
ceedings un-
der 7 and 8
Vict. c. 112.

in and for the County of that he had duly
served as a seaman in a certain ship called the
for the wages of from the day of to
the day of in the year aforesaid, which said
ship was during the said space of time employed in
fishing on the coasts of the United Kingdom [*or* in
proceeding from one part of the United Kingdom to
another, *or* in proceeding to the Island of ,
or in proceeding to a certain place on the Continent of
Europe between the River Elbe inclusive and Brest,
(to wit) to] and ended her last voyage in
the Port of the said port being a place near
to and within the said County of on the
day of in the year aforesaid, and that after
the expiration of two days from the termination of the
agreement entered into by the said *A. B.* for his ser-
vice in the said ship, to wit, on the day of
in the year aforesaid, one *C. D.* being master of the
said ship, did unlawfully neglect and refuse to pay to
the said *A. B.* the sum of which said sum
of was then and there due and payable to
him as wages for and on account of the services of the
said *A. B.* in the said ship during the period afore-
said, and did further neglect and refuse without suffi-
cient cause to pay the said sum of money for the space
of days beyond and after the said last
mentioned day, Whereby the said *C. D.* became liable
to pay to the said *A. B.* the further sum of
being the amount of two days pay for each and every
of days during which payment of the said
wages was without sufficient cause delayed as aforesaid.

[*Conclude as before.*]

Form of Order for payment of Wages earned under the Agreement in Schedule (B.) 7 and 8 Vict. c. 112, in a case where the Seaman shall have been discharged before the termination of his Agreement. (ss. 11 and 15.)

Forms of proceedings under 7 and 8 Vict. c. 112.

TO WIT. } WHEREAS on the day of in the
 } year of our Lord one thousand eight hundred and one *A. B.* of Seaman made complaint upon oath before me *J. P.* Esquire, one of Her Majesty's Justices of the Peace in and for the County of that he had duly served as a Seaman in a certain ship called the for the wages of from the day of to the day of in the year aforesaid, when the said *A. B.* was discharged, which said ship was during the said space of time employed in fishing on the coasts of the United Kingdom [*or* in proceeding from one part of the United Kingdom to another, *or* in proceeding to the Island of *or* in proceeding to a certain place on the Continent of Europe between the River Elbe inclusive and Brest (to wit) to] and ended her last voyage in the Port of the said port being a place near to and within the said County of and that one *C. D.* being master of the said ship did at the time of the discharge of the said *A. B.*, to wit, on the day of in the year aforesaid unlawfully neglect and refuse to pay to the said *A. B.* the sum of which said sum was then due and payable to him as wages for and on account of the services of him the said *A. B.* in the

Forms of proceedings under 7 and 8 Vict. c. 112.

said ship during the period aforesaid, and did further neglect and refuse without sufficient cause to pay the said sum of money for the space of days beyond and after the discharge of the said *A. B.* whereby the said *C. D.* became liable to pay to the said *A. B.* the further sum of being the amount of two days pay for each and every of the said days during which payment of the said wages was without sufficient cause delayed as aforesaid.

[*Conclude as before.*]

Note.—It will seldom be necessary to make an order for immediate payment under the 14th section. The only case in which it would give a seaman his wages before the usual time is that of discharge from a ship in which he shall have served under the agreement in schedule (A.), before the delivery of the cargo. In such case the ordinary time of payment would be seven days after the discharge, and the 14th section would reduce it to three days. The second of the foregoing forms of order for the payment of wages may be easily adapted to such a case, but it should recite that the seaman “is desirous of proceeding on another voyage, and in order thereto,” or for some other sufficient reason to be stated, required immediate payment of his wages, and that it appears to the Justice on satisfactory proof that the seaman “would be prevented from employment, or incur serious loss, or inconvenience by delay,” and that upon the hearing it appears “to the satisfaction of such Justice that there is no reasonable cause for delay.”

It will be observed that the forms of order for the payment of wages found the seaman's claim upon his service, without stating that he had entered into an agreement in writing, which seems to be unnecessary; they will therefore be suitable to a case wherein no such agreement exists, as when the seaman shall have been employed in coasting or fishing vessels under the burthen of 80 tons.

Form of Distress Warrant for the recovery of a Seaman's Wages, under s. 15, 7 and 8 Vict. c. 112.

Forms of proceedings under 7 and 8 Vict. c. 112.

To a Constable duly appointed to act in
the County of and to all other Her
Majesty's Peace Officers for the said County
whom these may concern.

TO WIT. } WHEREAS [set out the order] And
 } whereas the said *C. D.* having had notice
of my said order hath for the space of two days next
after the making thereof neglected and refused to pay
the said sum of to the said *A. B.* These
are therefore to command you the said Constable and
other Peace Officers to make Distress of the Goods
and Chattels of the said *C. D.* [or to levy the said
sum of together with the costs, charges and
expenses of recovering the same on the said Ship, or
on the Tackle and Apparel of the said ship] and if
within the space of days next after distress by
you made the said sum of together with all
the costs and expenses attending the recovery thereof,
and of taking and keeping the said distress shall not
be paid, that then you do sell the said goods and
chattels so by you distrained [or the said ship, or the
tackle and apparel of the said ship] and out of the
money arising from the sale thereof that you do pay
the said sum of unto the said *A. B.* rendering
the overplus (if any shall remain of the produce
of the sale) unto the said *C. D.* [or if the levy be
directed to be made upon the ship, or the tackle and

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apparel thereof, unto the owner or owners of the said ship] after deducting thereout all the costs, charges and expenses incurred by the said *A. B.* in the making and prosecuting of his said complaint as well as the costs and charges of the distress and levy. And you are hereby also commanded to certify to me the said Justice what you shall do by virtue of this my Warrant.

Given under my hand and seal on the day of
in the year aforesaid.

Form of Commitment in default of payment, and for want of sufficient distress, under section 15, 7 and 8 Vict. c. 112.

To a Constable of and to the
Keeper of the Common Gaol of the County
of

TO WIT. } WHEREAS [set out the order] And
 } whereas the said *C. D.* did for the space
of two days next after the making of my said order neglect and refuse to pay to the said *A. B.* the said sum of and on the day of in the year aforesaid I the said Justice did issue my Warrant to levy the said sum, together with the costs, charges and expenses incurred by the said *A. B.* in making and prosecuting his complaint, by distress and sale of the goods and chattels of the said *C. D.* [*or* to cause the said sum of together with the costs, charges and expenses incurred by the said *A. B.* in making and prosecuting his complaint, to be levied

on the said ship, *or* on the tackle and apparel of the said ship.] And whereas it appeareth to me the said Justice by the return of _____ made in obedience to my said warrant, that the said sum of _____ together with the said costs, charges and expenses, cannot be levied on the goods and chattels of the said *C. D.*, [*or* cannot be levied on the said ship, *or* on the tackle and apparel of the said ship, *or* that the said ship is not within the jurisdiction of me the said Justice, *or* that the levy made in pursuance of my said warrant hath proved insufficient,] and that the said sum of _____ [*or* the sum of _____] and the said costs, charges and expenses are still due to the said *A. B.* and unpaid. These are therefore to will and require you the said Constable forthwith to apprehend the said *C. D.* and to convey him to the Common Gaol of the said County, and to deliver him the said *C. D.* into the custody of the Keeper of the said Gaol, together with this my warrant, and you the said Keeper are hereby commanded and required to receive the said *C. D.* into your custody in the said Gaol, and him therein safely to keep without bail until payment shall be made of the said sum of _____ so awarded to be paid by the said *C. D.* to the said *A. B.*, and of the further sum of _____ ascertained by me the said Justice to be the amount of the costs and expenses attending the recovery thereof, [*or in case of a part of the wages having been raised by distress and a return being made of the levy having proved insufficient, until payment shall be made of the sum of _____ being the amount of wages now due and payable from the said C. D. to the said A. B.*

Forms of proceedings under 7 and 8 Vict. c. 112.

Forms of proceedings under 7 and 8 Vict. c. 112.

under my said order, and of the further sum of ascertained by me the said Justice to be the amount of the costs and expenses attending the recovery of the wages of the said *A. B.*] And for so doing this shall be your sufficient warrant.

Given under my hand and seal on the day
of in the year aforesaid.

Form of Warrant under Section 10, 7 and 8 Vict. c. 112.

To a Constable of the of
and to all other Her Majesty's Peace Officers of
the said

TO WIT. } WHEREAS on the day of in
 the year of our Lord one thousand eight
hundred and complaint upon oath was made
by *A. B.* of Seaman, to and before me *J. P.*
Esquire, one of Her Majesty's Justices of the Peace
in and for the County of and near to the place
hereinafter mentioned, that is to say, near to the
Parish of in the said County, that one *C. D.*
of the said Parish of in the said County, being
the keeper of a public house, [*or of a lodging house*
for seamen] did on the day of in the
year aforesaid, at the Parish aforesaid in the said
County, unlawfully detain and doth still unlawfully
detain certain property of the said *A. B.*, to wit,
 for a debt falsely
alleged to have been contracted by the said *A. B.*

contrary to the statute in such case made and provided. Whereupon I the said Justice did issue my summons requiring the said *C. D.* to be and appear before me the said Justice on the day of in the year aforesaid to answer the said complaint. And whereas on the said last mentioned day the said *C. D.* appeareth and is present before me the said Justice, in pursuance of my said summons, to answer the said complaint, [*or the said C. D. having been duly served with my said summons, as appears to me on the oath of hath neglected and refused to appear and doth not appear to answer the said complaint*]. Whereupon I the said Justice do proceed to inquire into the matter of the said complaint upon the oath of the said *A. B.* [*and of if any other witness should be examined*] and [*if the party charged appear, having heard what the said C. D. hath to say in answer to the said complaint, and, if he produce any witness, having heard his witness, to wit, one upon oath, and*] having maturely considered the matter it appeareth to me the said Justice that the claim of the said *C. D.* for the said debt so alleged to have been contracted as aforesaid is fraudulent [*or that the debt alleged to be due to the said C. D. from the said A. B. was not fairly incurred to the full amount of the claim made by the said C. D.*], and upon due consideration thereof I the said Justice do adjudge the said complaint to be true, and do hereby order and direct the said of and belonging to the said *A. B.* to be seized and delivered over to the said *A. B.*, and by this my Warrant do hereby command and require you the said Constable and Peace Officers forthwith to

Forms of
ceedings 1
der 7 and
Vict. c. 11

Forms of proceedings under 7 and 8 /ict. c. 112. seize the said effects and to deliver over the same to the said *A. B.* And for so doing this shall be your sufficient warrant.

Given under my hand and seal on the day of
in the year aforesaid.

Form of Information for the recovery of excess of Wages paid to a Substitute for a Seaman deserting in parts beyond the Seas. (ss. 9 and 62, 7 and 8 Vict. c. 112.)

 } BE it remembered that on the day of
TO WIT. } in the year of our Lord one
thousand eight hundred and at in
the County of one of
Master or Owner of the Ship cometh before me
J. P. Esquire, one of Her Majesty's Justices of the
Peace in and for the said County, and informeth me the
said Justice that within one year after the commission
of the offence hereinafter mentioned, [*or two years, if
committed at or beyond the Cape of Good Hope or
Cape Horn; or within two calendar months after the
return of one A. B. a Seaman, and of the said
to the United Kingdom*] to wit, on the day of
 in the year of our Lord one thousand eight
hundred and one *A. B.* [*or the said A. B.*] being
a Seaman belonging to a certain ship called the
then upon a voyage in parts beyond the seas, and hav-
ing entered into an agreement in writing with *C. D.*
Master of the said ship, duly and faithfully to perform

the voyage upon which the said ship was then proceeding, to wit, from to , did on the day of unlawfully desert from the said ship in parts beyond the seas, to wit, at , whereupon and in consequence of the desertion of the said *A. B.* the said *C. D.* so being master of the said ship, did then and there engage a substitute at a higher rate of wages than the rate of wages stipulated in the agreement entered into by the said *A. B.* for the said voyage to be paid to him the said *A. B.*, and did afterwards, to wit, on the termination of the said voyage pay to the said substitute an excess of wages amounting to the sum of beyond the amount which would have been payable to the said *A. B.* in case he had duly performed his service pursuant to his said agreement. And that now, to wit, at the time of exhibiting this information, the said *A. B.* is within the jurisdiction of me the said Justice, to wit, at in the said County of Whereupon the said prays that the said *A. B.* may be summoned to answer the charge herein alleged against him, and that he may be adjudged to pay to the said [*master or owner*] the said sum of so paid by the said *C. D.* and being an excess of wages paid by him the said *C. D.* to the said Substitute over and above the rate of wages stipulated in the said agreement to be paid to the said *A. B.* for his service as a Seaman during the said voyage, according to the form of the Statute in such case made and provided. And that I the said Justice will proceed upon the information herein contained according to law.

Exhibited before me,

Forms of proceedings under 7 and 8 Vict. c. 112

forms of pro-
ceedings un-
der 7 and 8
Act, c. 112.

*As there is no summary Form of Conviction provided by the 7 and 8 Vic. c. 112, the following form, given by the Act of the 3 Geo. IV. c. 23, will be the proper form to follow.**

County [or, } BE it remembered that on the day
as the case } of in the year of our Lord
may be] of at in the County
of A. B. of in the County of
Labourer, [or, as the case may be] personally came
before me [or, before us, &c.] C. D. one [or more, as
the case may be] of Her Majesty's Justices of the
Peace for the said and informed me [or us,
&c.] that E. F. of in the County of
on the day of at in the said
did [*here set forth the fact for which the information
is laid*] contrary to the form of the Statute in such
case made and provided, whereupon the said E. F.
after being duly summoned to answer the said charge,
appeared before me, [or us, &c.] on the day of
at in the said and having
heard the charge contained in the said information,
declared he was not guilty of the said offence, [or, as
the case may happen to be,] did not appear before me,
[or us, &c.] pursuant to the said summons,] [or, did
neglect and refuse to make any defence against the
said charge]; whereupon I [or we, &c. or, never-

* The last form contains the necessary averments to establish the jurisdiction of the convicting Magistrate, and such averments must be carefully inserted in this form.

theless I, *or we, &c.*] the said Justice, *or Justices,* Forms of proceedings under 7 and Vict. c. 111
 did proceed to examine into the truth of the charge contained in the said information, and on the day
 of aforesaid, at the Parish of aforesaid,
 one credible witness, to wit, *A. W.* of in the
 County of upon his oath deposeth and saith
 [*if E. F. be present, say,* in the presence of the said
E. F.] that within months [*or, as the case may
 be*] next before the said information was made before
 me [*or, us, &c.*] the said Justice by the said *A. B.*,
 to wit, on the day of in the year the
 said *E. F.* at in the said County of [*here
 state the evidence, and as nearly as possible in the words
 used by the witness, and if more than one witness be
 examined, state the evidence given by each*] [*or, if the
 Defendant confess, instead of stating the evidence, say,*]
 and the said *E. F.* acknowledged and voluntarily con-
 fessed the same to be true]; therefore it manifestly
 appearing to me [*or us, &c.*] that he the said *E. F.* is
 guilty of the offence charged upon him in the said
 information, I [*or we, &c.*] do hereby convict him of
 the offence aforesaid, and do declare and adjudge,
 that he the said *E. F.* hath forfeited the sum of
 of lawful money of *Great Britain* for the offence
 aforesaid, to be distributed [*or paid, as the case may
 be*] according to the form of the Statute in that case
 made and provided.

Given under my hand [*or our hands, &c.*] and seal,
 the day of in the year of our Lord



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THE END.







